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Annual Report
1992-1993

Ombudsman Ontario

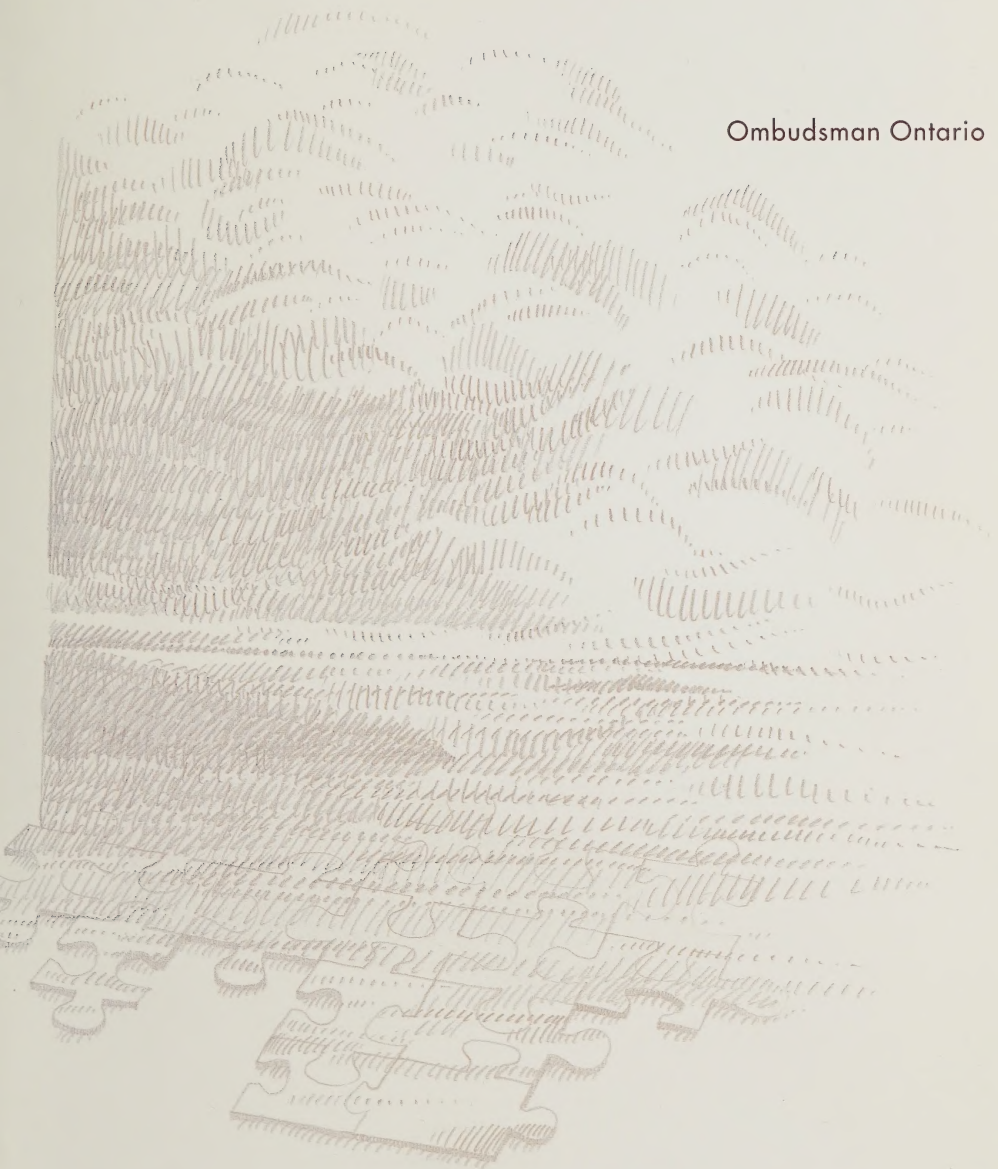


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June 1, 1993

The Hon. David Warner, Speaker
Legislative Assembly
Province of Ontario
Queen's Park
Toronto

Dear Mr. Speaker:

I am pleased to submit to you my Annual Report for the period April 1, 1992 to March 31, 1993, pursuant to Section 11 of the *Ombudsman Act*, so that you might cause it to be laid before the Assembly.

Roberta Jamieson
Roberta L. Jamieson
Ombudsman

Annual Report

for fiscal year

April 1, 1992 – March 31, 1993

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Ombudsman Ontario Mission Statement

It is the mission of the Ombudsman of Ontario to assist the people of Ontario to enjoy public service of the highest quality from provincial government organizations.

The Ombudsman achieves this goal through the prompt, efficient investigation and resolution of complaints, issues and concerns which are brought to her attention or are investigated on her own initiative.

While her services are available to all members of the Ontario public, the Ombudsman is particularly alert to the need to serve those individuals and groups in society who are most vulnerable to injustice.

The Ombudsman is assisted in retaining the confidence of the public and officials by a professional staff who uphold the same high professional standards expected of the Ombudsman herself. Through internal training and professional development programs, the Ombudsman provides opportunities for her staff to enhance their capacity to provide service to the public.

The Ombudsman's services are kept relevant and appropriate to the people of Ontario as needs and circumstances change, and she makes all possible effort to ensure that all people in Ontario are aware of the availability of her services, and that they are accessible to all who wish to use them. The processes and procedures she uses are "people friendly". The Ombudsman's services are rendered in a manner which is culturally-appropriate, timely, cost-efficient, and effective.

The Ombudsman acts in an impartial manner, using objective standards, so the people of Ontario may have confidence in her decisions.

The Ombudsman's educational activities increase the public's knowledge of Ombudsmanship as a mechanism of direct participation in the improvement of democracy.

The Ombudsman encourages governmental organizations to regard her as a creative resource for progressive government administration.

The Ombudsman carries out her mandate with appropriate regard for the role of the Legislative Assembly, the Standing Committee on the Ombudsman, and individual Members.

The Ombudsman contributes to the evolution of Ombudsmanship by developing standards and criteria regarding government administration.

The Ombudsman ensures that her own organization adheres to the standards which are expected of others.

The Ombudsman demonstrates the development and use of appropriate techniques and mechanisms to resolve issues and concerns.

In addition to investigating individual complaints, the Ombudsman examines systemic and "own motion" concerns.

Message from the Ombudsman

AN OMBUDSMAN, by definition, occupies a unique position to view the relationship between government and public. This year, perhaps more than previously, the public and government have been redefining their respective roles and relationship with each other. The stresses can be felt every day in hundreds of calls and letters to our office.

The once-established concept of voters entrusting decisions to elected leaders for a fixed period of time has largely been abandoned. Now people demand accountability almost on a daily basis. People evaluate politicians and public servants frequently, not just at election time, and with an increasing degree of cynicism and scepticism. People wish to be consulted on any decision which might affect their lives. Public servants find themselves under increased pressure to do more with less under increased public scrutiny, while worrying about their own job security.

Governments are faced with another quite different reality. Years of spending in excess of income has mounted a heavy debt. Now a high and still growing proportion of taxes goes to paying interest on the debt rather than providing services. Fiscal restraint imposed on services and programs has been seen as the only alternative to reduce annual deficits.

The worldwide recession which hit Canada so forcefully, coupled with a fundamental restructuring of Ontario's economy have left many people facing a new kind of unemployment, one which threatens to be permanent. A critical remedy is to accept frequent returns to school for increased education and retraining as a prerequisite to becoming re-employed. As well, many people in Ontario for the first time in their lives are in contact with government as new applicants for social benefits, applicants for retraining, adult children seeking elder care assistance. Often, they find the services they had always considered were there for "other people" do not meet the standard of service which they expect for themselves. The result is less tolerance for any breach of courtesy, any delay, any laxity in the government's administration. Frustration and hostility have reached the point where some public servants are seeking protection from irate clients.

At the same time government is cutting back on spending, the public is demanding increased levels of services to assist in meeting increasing demands in their own lives. The public wants improved educational systems at all levels to offer the preparation needed to survive in the world of the future when totally different skills and attitudes will be required. Even two-parent families trying to earn enough to pay for an acceptable standard of living are among those turning to government for expanded programs to help care for children or older relatives while they are at work. For increasing numbers of those called the "sandwich generation" there is caring for both children *and* parents. Increased cuts meeting increased demands is another recipe for friction and dissension.

Another factor to be considered is that government's ways of doing business—consulting, making decisions, providing services, relating to the public—was designed in another time. Like many other institutions in society, those of government have not changed as rapidly as society itself. Long-established structural and bureaucratic patterns are among the factors which keep government from keeping pace in adjusting to the realities of the 1990s.

Like other Canadians, the people of Ontario have prided themselves—and with good reason—on belonging to a society which upholds high standards and values. We say we want a society in which people have equitable employment opportunity, where no one is discriminated against because of race or religion or gender. That is what we believe. But beliefs are empty until they are tested by reality. Today, people who have been excluded from opportunity because of the size of their wallet, because they have a disability or are members of a particular racial group are taking Ontario's principles at face value. They are seeking training, jobs, a discrimination-free environment, government services which respond to their needs, involvement in decisions which affect their daily lives—exactly what many take for granted as standard practice.

When excluded groups point out that the daily reality of their lives falls short of the standard which is advertised as "the Canadian way",

mainstream Canada reacts with surprise, defensiveness, even hostility. The special measures necessary to achieve legitimate aspirations are often labelled as “unreasonable demands”, or advocacy of “reverse discrimination”. Persons who make demands and point out shortcomings are told they are responsible for their own condition. Assumptions are made that we live in a zero-sum world: the more for “them”, the less for me. The result of these attitudes, sustained by ignorance and fear, is that new barriers are thrown up.

The reality is, however, that the extent to which the status quo is preserved so as to exclude the so-called “minorities” or “interest groups” which are the majority of Ontario’s population is the extent to which we all lose in very real terms. A high price is paid socially and economically both because of the costs of unrest and discontent, and the loss of the tremendous contribution to everyone’s well-being which could be counted on if space were created for those who have the potential to make it.

Everyone is concerned in these critical times about getting “value for money”. While the Ombudsman makes decisions based on principles

of fairness and justice rather than money, there is an economic value to the Ombudsman’s work. When people have a means of having their complaints heard and dealt with, they are less likely to need to resort to actions which ultimately cost the public purse more. When public servants know their reasonable actions and decisions will be vindicated by the Ombudsman, they are more likely to be productive workers. When the Ombudsman recommends systemic changes based on the investigation of a complaint, the government can save by making necessary changes which could be costly if they go undetected. When an Ombudsman investigation encourages a governmental organization to provide services to a group which is being neglected or excluded, that action may in turn help that group to be in a better position to contribute to Ontario’s economy—everyone in Ontario gains when that happens.

In my work as Ombudsman, I find the people who are least likely to be aware the Ombudsman even exists are those who are the most vulnerable to unfairness, and those who may have the greatest number of complaints to be registered. To the extent that unfairness continues unidentified and unchecked, not only does an individual suffer injustice, but all society is the poorer for not having achieved a remedy.

I see correcting this situation as part of my mandate as Ombudsman. Deliberate steps have been taken, albeit smaller steps than I would like to take, to reach the populations who are among the most vulnerable to unfairness, the most excluded. I recognize that the process of achieving service equity is necessarily incremental, and requires a great deal of sensitivity, openness, patience, hard work, and understanding with respect both to those within the organization who must do the reaching out, and those we are attempting to reach. A history of excluding and exclusion does not give way easily. Doors which have been perceived as closed may be difficult to open and keep open.

I am convinced every public agency must move as rapidly as possible along this same path if it is to retain the confidence of the public. It may help if



Roberta Jamieson
Ontario Ombudsman

it is understood that doing things differently in the future is not a condemnation of the past, that success will not be achieved overnight, that there is no use looking for the rule book for change because it doesn't exist. People must feel free to invent the strategies which will work.

Some organizations have already begun implementing some measure of service equity by offering government services in a variety of languages both by telephone and in writing. Much more than "translation" is required, however. All organizations must be open to taking the point of view of a wide variety of diverse groups in re-examining their way of doing business. This may involve a fundamental shift in the make-up of a workforce and/or accepted styles of operating. Any public agency with the courage to move voluntarily will find the challenge stimulating, exciting, and well worth the effort. To the extent that others can learn from the experience of this office, I am happy to share what we are learning.

In every instance where government reorganizes and new organizations are created to meet emerging needs, consideration should also be given to the manner in which the public's concerns and complaints will be dealt with when there is dissatisfaction about decisions or actions. If there is to be an internal appeals process, this should be clearly specified. If there is new legislation, there should be a clear understanding as to how the Ombudsman's mandate will impact on the organization when internal appeals have been exhausted. If a principal objective of a proposed new agency is to consider complaints from the public, consideration might be given as to whether it would be more efficient to have those complaints dealt with by the Ombudsman, or whether the expense and complexity of establishing another complaint receiver is warranted.

A concern which I expressed in my last Annual Report continues: no independent body has jurisdiction to review complaints about Children's Aid Societies, municipalities, municipally administered General Welfare Assistance, and with respect to education and public hospitals.

I continue to be guided by the Mission Statement set out in the 1990-91 Report, excerpts of which appear on this Report's first page. Those are the standards, objectives and directions to which I will be held accountable. Achievement has come slower than I expected. Even with the best of preparation, change can create stress and tension, both internally and externally, and tension creates friction which slows progress. I am satisfied, however, that implementation of the Mission Statement is bringing the people of Ontario improved Ombudsman services, and that they can expect continued improvement. Improvement also means "value for money" in operations. In this as well as in other ways, the Ombudsman's organization must set an example for the organizations she investigates if her recommendations are to have credibility.

Furthermore, as the people's representative, the Ombudsman has an obligation to make good use of every dollar received so as to ensure that the public is well served.

As I move into the fourth year of my ten-year mandate, I am tremendously aided by one of the most committed professional staffs which can be found in the public or private sector in Ontario. This Report documents their tireless efforts to give effect to our mission. I encourage you to review the chapters and case summaries which follow to learn more about the quality of service which they provided to the people of Ontario.



Roberta Jamieson
Ombudsman of Ontario

Recommendations – Denied

When the Ombudsman is unable to obtain implementation of her recommendations by government, she may report on the matter to the Legislature. This is an essential measure, since the Ombudsman does not have the power to enforce her decisions. *This year, however, it was not necessary for me to seek the intervention of the Legislative Assembly in order to have my recommendations implemented.* This is not because recommendations have become “easy”, nor because of any resistance on my part to report to the Legislature the unwillingness of government to implement my recommendations. Many recommendations which I make are not accepted initially by officials. I then take the matter personally to the Deputy Minister or head of the government organization. If I cannot obtain an agreement at this level, I contact the Minister, and if necessary, I can put the matter before the Premier. If the Premier declines to act, I am then able to set the matter before the Legislative Assembly.

This is the process set out in the *Ombudsman Act*. The purpose of each meeting is not to negotiate the recommendations, since they remain firm. The objective is to point out why the recommendations should be implemented, and if possible, to work out a mutually-acceptable agreement on a plan to implement them. Since my appointment as Ombudsman, all recommendations I have made have been handled in this manner. Although in some instances when all other efforts had failed it was necessary for me to ask the Premier to intervene, in each case recommendations were agreed upon within the time stipulated before I would have reported the matter to the Legislature.

An Unfavourable Climate

The Ombudsman is an Officer of the Legislature whose mandate and powers is set out by the Legislature in the *Ombudsman Act*. Checks and balances are provided to ensure that spending of the taxpayers' dollars is scrutinized, and that the Ombudsman reaches her conclusions about the administration of government on their merits of the case and free from political interference. Even so, the balance between accountability and independence has been a perennial topic. Today, even the Canadian Judicial Council, chaired by the Chief Justice of the Supreme Court, is studying the question of judicial independence and accountability.

The Legislature has passed Standing Orders to create a Standing Committee on the Ombudsman and to set out its mandate. On May 28, 1992, that Committee made a Report to the Legislature which contained recommendations which I felt would, if adopted, raise significant questions about the Ombudsman's ability to act independently. At this same time, a number of unsubstantiated allegations were raised publicly by some Members of the Legislature about the Ombudsman's operations. As a result, I decided to issue a Special Report to the Legislature to contribute to a well-reasoned dialogue on the respective roles of the Committee and the Ombudsman. In it, I expressed the hope that with increased understanding of the special nature of the Ombudsman institution, there might be a new beginning in which the Legislature and the Ombudsman would be working together to ensure that the public receives the service they need and desire.

As the fiscal year comes to a close, in general, the matter seems to have been settled. It is not my desire to re-open debate on the issues. However, some valuable, if painful, lessons have been learned by the experience which are worthy of being shared since they might not be readily apparent to others. The primary lesson is that after all was said and done, the Ombudsman's operations were negatively affected by the unprecedented, unwarranted, and often anonymous criticism which was made or repeated. This situation had an impact on relations with the public, with public servants, and with my staff.

Although the Ombudsman is the place of last resort from which there is no appeal, the impression was given to the public that if the Ombudsman did not decide in favour of a complainant that the Standing Committee on the Ombudsman would review their files in a more satisfactory manner. The threat was made with increased frequency to “go to the Committee” if the Ombudsman did not support a complaint.

Some members of the public indicated they had thought twice about bringing their complaint to the Ombudsman because they had heard about a tremendous “backlog” and extensive delays. *In fact, there was no backlog at all and cases were proceeding normally.* It is not known, of course, how many members of the public simply abandoned their complaint rather than to have it become a part of the “backlog” or subject to delay.

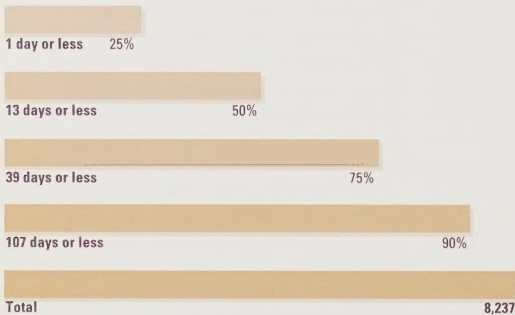
Many Members of the Legislature also became concerned that cases they had sent to the Ombudsman on behalf of constituents might be part of an alleged and imagined “backlog”, and began to request information on a case’s progress on a regular basis. MPP staff members became less inclined to accept the word of the Ombudsman’s staff that an investigation was progressing normally and well. At the same time, many persons and MPPs came forward to express their concern that the independence of the Ombudsman would continue to be protected, and to express their satisfaction about services received from the Ombudsman’s staff.

The negative climate also had impact on the willingness of governmental organizations to cooperate fully with investigations. Small issues were pushed to the limit. A number of officials withheld their agreement to accept the Ombudsman’s findings and recommendations because they were certain that the Ombudsman would not take the matter to the Legislature because of the well-publicized controversy. They would agree to accept the Ombudsman’s recommendations only when they became convinced that the Ombudsman was indeed willing to use all means available to her to achieve implementation of her recommendations.

All of this took time and energy away from the work which the Ombudsman is supposed to do. I sincerely hope that if at any time there are concerns by Members of the Legislature about services provided by the Ombudsman, a way can be found to deal with them which does not have the profoundly negative effect as did the method employed this year.

On March 11, I appeared before the Standing Committee on the Ombudsman to discuss my 1991-92 Annual Report.

Length of time required to resolve written complaints and inquiries:



(Average days to close: 19)

Standing Committee on Public Accounts

I also appeared before the Standing Committee on Public Accounts which had instructed the Provincial Auditor to do a value-for-money audit. The Provincial Auditor already audits the accounts and expenditures of the Ombudsman under the *Ombudsman Act*, and for the last three years has reported an unqualified audit. While I welcomed a value-for-money audit as a management tool to help improve the efficiency of my operations, I was concerned that the instruction of the Committee had been made without hearing my perspective on an appropriate balance of accountability and independence.

I requested to appear before the Committee to suggest options through which our mutual objectives could be accommodated without raising questions about the Ombudsman's legislated independence. After the Committee heard my concerns, an accommodation was reached providing for the Provincial Auditor to do a value-for-money audit when he does his regular audit under the *Ombudsman Act*. I have undertaken to provide a copy of the audit to the Legislature's Board of Internal Economy which reviews my Estimates and which is chaired by the Speaker.

A continuing issue about the provision of information

I regret that neither the Government nor the Legislature has dealt with the issue of conflict between *The Freedom of Information and Protection of Individual Privacy Act (FIPPA)* and the *Ombudsman Act* which I brought to their attention in my last Annual Report. While the judicial review application made in 1991-92 was withdrawn for unrelated reasons, the fundamental issue remains.

Through this Report, I once again encourage both to make the changes in *FIPPA* which will make it unequivocally clear that the Ombudsman can access information which is relevant and necessary to an investigation, and to protect all information which the Ombudsman obtains from unwarranted access by third parties.

Sustained discussion with officials of the Attorney General and with Management Board has not resolved the issue. Ombudsman staff have had to undertake unusual measures in investigative procedures to protect information which

becomes available through investigations. These measures have caused delay in investigations and have caused some hardship to governmental organizations in commenting on the Ombudsman's findings. This issue continues to hinder the work of the Ombudsman.

A second issue related to documents and information has arisen. In several cases, I have had to authorize extraordinary measures to obtain documents and information I considered necessary to an investigation. While I do have powers made available to me under the *Act* through which I can obtain information for investigations, a hallmark of Ombudsman investigations should be cooperation between the Ombudsman and governmental organizations so public complaints can be responded to quickly and effectively. It is in a governmental organization's own interest to be seen as cooperating with the Ombudsman to develop a high standard of public service.

Directorate Reports Community Access and Intake

The Ombudsman's Mission Statement sets out as a goal:

"The Ombudsman's services are kept relevant and appropriate to the people of Ontario as needs and circumstances change, and she makes all possible effort to ensure that all people in Ontario are aware of the availability of her services, and that they are accessible to all who wish to use them."

Two major changes were made in the Ombudsman's organization during this fiscal year in order to develop pro-active service which better places the Ombudsman's staff in community settings doing public education, resolving problems, and receiving complaints. The changes are intended both to streamline operations for efficiency and to provide more relevant and equitable service consistently throughout the province.

The Toronto office was reorganized to create six District Officer positions able to receive inquiries and complaints. Public education became a responsibility of this unit for the first time. All but two of the Ombudsman's District Offices now have a two-person staff complement to deal with an increased volume of work and to provide better access for the communities we serve. Services are offered in both French and English and service in other languages can be arranged as required. Whenever an office is relocated, our practice is to choose a location which provides easy access to all members of the public and full access for people with disabilities.

Access to Ombudsman services means more than just physical improvements. It includes culturally-appropriate communications, services to people who have limited mobility because they cannot afford transportation, or because of geographic location, or because of disability, age, or other factors. Often it is these same factors which limit the ability of people to deal with problems they may be experiencing with government.

Community Access and Intake staff participate in training programs to improve consistency and appropriate standards when dealing with the public's concerns and complaints. Training has also been undertaken in the principles and practices of service equity, incorporating relevant

public education techniques and skills. Training has also assisted staff to distinguish between complaints which can be resolved early and those which require complete investigation. There has been anti-racism training. A staff conference will take place in April for training in the area of systemic complaints and their early identification. Job functions have been reviewed with a view to improving working arrangements and reducing job burnout.

The Directorate's information and referral system, critical to the prompt and relevant provision of service, is being revised and transferred to a computerized database.

Long-range strategic plans for public education activities with specific attention to service equity have been designed throughout the province. Priorities were established for each office to reflect the area's demographic and socio-economic profiles. The first year of the program is being implemented. Generally, public education activities are conducted with "intake clinics", at which people are able to present complaints. Indications are that where efforts have been intensive, non-jurisdictional complaints appear to decrease while jurisdictional complaints increase. The following partial lists provide examples of activities for each region:

Kenora

Staff met with Canadian Red Cross Homemaker Service, Fort Frances Jail, Dryden High School, Project Self-Sufficiency, Sioux Lookout Legal Clinic and have travelled several times to Dryden, Emo, and Vermilion Bay.

Thunder Bay

Staff held meetings in Pikangikum, Sandy Lake, Big Trout Lake, Gull Bay, White Sands, Kingfisher Lake, Moose Factory, Fort Albany, Kashechewan, Attawapiskat, Peawanuck. Staff also met with Ignace Interagency Committee, William W. Creighton Centre, Armstrong Resource Development Corporation. Meetings were also held at Marathon, Pic River, Manitouwadge, and Red Rock First Nation.

London

Staff held a well-attended open house at which the Ombudsman met with service providers, government officials, and grassroots community advocates. Staff met with the Learning Disabilities Association, William Proudfoot House, Alice Saddy Association, Assn. of Iroquois & Allied Indians, Elgin-Middlesex Detention Centre.

Sudbury

Priority in Sudbury this year has been the francophone community. Staff met with l'Association canadienne-française de l'Ontario du Grand Sudbury, le Comité consultatif francophone, Lively Secondary School, Marymount College.

Windsor

Focus was on people with disabilities. In addition, staff met with Windsor Western Hospital Outreach Programme, Unemployed Help Centre, St. Clair College, Salvation Army Over-60's Group.

North Bay

Priority was given to students, people with disabilities and their service providers. Staff met with the Canadian Hearing Society, Centre for the Disabled and Homelink, Literacy Alliance of North Bay, Persons Ruling Over Disability (PROD), Parry Sound Community Living, Rehabilitation Resources Programme.

Ottawa

Priority was providing services to people who are economically disadvantaged, racial minorities and recent immigrants. Meetings were held with adult basic education classes, health-related service providers, and community legal clinics. Other meetings were held with the University of Ottawa Poverty Law Course, Pink Triangle Services, Provincial Conference on Child Care.

Sault Ste. Marie

New staff are just beginning to implement public education plans by making contacts with officials of governmental organizations. Staff also have met with Garden River First Nation Service Providers, Algoma Volunteer Association, Indian Friendship Centre, Anishnabie Naadmaagi Gamig Treatment Centre.

Timmins

Staff have held meetings with Jubilee Centre Drug & Alcohol Recovery Programme, Francophone Social Services Students, Northern College, Minto Counselling Centre, Cité des Jeunes Advanced Law Class, Le Projet collège au féminin, Collège Northern, Women's Information Network.

Toronto

Information sessions have been held for community-based leaders in the metropolitan area. Newly-appointed district officers have also attended meetings with, for example, persons who have recently immigrated to Canada at the Bickford Centre, churches, organizations for persons with disabilities, Rosalee Hall (a facility for teen-age mothers) and the Okuatemman Cultural Association. In addition, staff have conducted sessions with inmates of correctional institutions in Toronto, and at St. John's School in Uxbridge, a young offenders' facility.

In addition, Ombudsman staff met with the people of Ontario in a wide variety of schools, housing authorities, adult learning centres, native friendship centres, and district offices of provincial organizations. Staff members also provided liaison with a variety of race relations and community groups on an on-going basis. In all areas, public education includes special emphasis on Ontario's youth by focusing activities on schools and colleges and on out-of-school youth.

Tany's Quesnel
District Officer



Directorate Reports Investigations and Legal Services

The Mission Statement includes:

"It is the mission of the Ombudsman of Ontario to assist the people of Ontario to enjoy public service of the highest quality from provincial government organizations. The Ombudsman achieves this goal through the prompt efficient investigation and resolution of complaints, issues, and concerns which are brought to her attention or are investigated on her own initiative."

The Investigations and Legal Services Directorate focused its attention this year on analyzing and improving the complaint process and procedures. The goal was to find the right balance between efficiency, on the one hand, and ensuring that our process honours fairness and impartiality on the other.

Finding balance is necessary, because fairness takes time. When issues are complex and need thorough review, greater formality is introduced in the process to ensure that all parties are heard and all issues are canvassed. Where a step in the process seems to require excessive time, the step is analyzed as to whether the time required is really necessary to ensure fairness to all parties.

A number of steps have been introduced at the beginning of the process in order to save time and reduce frustration later on. At the outset, investigators attempt to frankly review with the complainant the reasonable limits of the final results which they might expect if the complaint is supported by the Ombudsman. This procedure enables complainants to decide at the beginning whether the Ombudsman process could help them realize their objectives.

When it appears that the involvement of a provincial government organization is only incidental to the primary complaint, or when it appears that even if an investigation were to be conducted there is very little we could do in the end, the Ombudsman may use her discretion not to proceed further. By deciding this early on, expectations are not allowed to expand only to be dashed after a long wait.

Another standard practice is to define clearly the scope of the investigation at the outset. A letter is written to the complainant stating the contentions which the Ombudsman intends to investigate. In this way, a clear record is available of issues being investigated.

Standards of time required for each significant step in the process are being developed. This assists in monitoring the progress of each investigation so as to determine if the time involved constitutes "delay", or if the time lapse is in fact necessary for a thorough and fair investigation. Investigators make every effort to work within these standards, and where additional time is required, the justification is provided. The setting of standards will also enable the Directorate to allocate staff resources more equitably and to balance workloads. The review of complaint handling and complaint trends has enabled the Directorate to identify workload issues as well. In order to assign issue areas and complaint loads equitably, a transfer of issue areas between teams will take place early in the new fiscal year.

Every effort is made to achieve satisfactory resolution of complaints or agreement to implement recommendations with officials involved with the matter as early in the process as possible. Our experience is that the further along in the process that resolution occurs, the more time and resources are consumed by staff, the Ombudsman, and by the governmental organization.

The Directorate has also analyzed its working relations with governmental organizations. As a result, a list has been developed of those agencies for which we will undertake strategic education initiatives to improve their understanding of the Ombudsman's mandate.

A project is underway to collect into one format the Ombudsman standards of review and principles of administrative fairness so they can be shared with governmental organizations and members of the Ontario public.

Systemic Investigations

Systemic investigations provides a means through which the Ombudsman can use resources more efficiently by dealing with a number of related complaints in one investigative process, or a flaw in process or procedure raised by an individual complaint which will prevent future similar complaints. In dealing with an issue, the Ombudsman's staff tries to find a resolution which not only addresses the concern of the individual who brought it to the Ombudsman, but also results in new policies or practices which make it unnecessary for other persons to raise the same

complaint in the future. For example, if a flaw has been detected in an agency's process, the Ombudsman expects that not only will the individual complaint be addressed, but that the institution will correct the flaw. In this way, the necessity for people to have to complain to the Ombudsman is reduced.

These "systemic investigations" have profoundly affected the manner in which the Ombudsman deals with complaints and how service to the public is viewed. A number of examples illustrate:

Employment Standards Branch

The Ombudsman began an investigation on her own motion into allegations of long or unexplained periods of delay and insufficient communication with clients in the work of the Ministry of Labour's Employment Standards Branch. While the investigation is continuing, the Ombudsman has taken note that the Ministry recognized and took action almost immediately on one important aspect of the problem. At the time a complaint is registered, every claimant is now told in writing approximately how long it will be before the Branch's investigation can commence. This practice has resulted in a dramatic decrease in the number of inquiries filed with the Ombudsman.

Ministry of the Environment

An environmental group, the N Association, contacted the Ombudsman about frustrating delays encountered in their dealings with the Ministry of the Environment. The group had written the Ministry in early 1990 with a request to have a proposed expansion of a quarry operation subjected to a formal hearing under the *Environmental Assessment Act*. However, they could not get a decision from the Ministry. The Ombudsman investigated and informed the Ministry she was considering the issuing of a report which concluded the Ministry had taken an unreasonable period of time to make a decision on the request of the N Assn. As a result, a decision was issued in August, 1992, along with an apology from the Minister. Since the Ombudsman had concluded that the delays had occurred because the Ministry had not taken adequate measures to expedite the decision-making process and the elimination of a backlog of requests, the Ministry

developed a process to track all requests it receives. In fact, it extended the monitoring process to other types of applications handled by the Ministry. The Ombudsman also called for the adoption of specific and adequate standards for responding to requests. The Ministry reported it was now taking significant steps to ensure that all requests receive a Ministerial decision within 120 days of receipt. As a result of this and other complaints, the Ombudsman also investigated the Ministry's delay in responding to correspondence. The Ombudsman is continuing to monitor the Ministry's efforts to markedly improve the manner in which it handles correspondence.

Ministry of Correctional Services

In 1989, the Ministry established a regulation that in order to be eligible for Canteen Allowance credits, inmates had to be sentenced to twenty-one days or longer. As a result, the Ombudsman began to receive complaints from inmates on remand—those who had not yet been sentenced, but who in many cases may be confined for months. The perception was that the regulation was discriminating against remanded inmates. The Ombudsman decided to undertake an investigation on her own motion. It was found that all inmates, including those on remand, are expected to perform work, participate in institutional programs, and demonstrate positive conduct. International principles call for remanded prisoners not being treated the same as sentenced inmates, and in this instance, they were receiving poorer treatment. The Ombudsman also found that the Ministry had a responsibility to be fair and equitable in its delivery of programs and services. She concluded the regulations were inappropriate, discriminatory, and wrong. As a result, the Ministry joined with the Ministry of the Solicitor General to restructure the Canteen Allowance program. All inmates will qualify for a \$10-a-week canteen allowance credit after having been in custody for two consecutive Monday-Sunday weeks. The change will require a change to the Regulations under the *Ministry of Correctional Services Act*.

In December, the Directorate held a day-long seminar to address the ways in which systemic issues are identified and the variety of means that

are used to deal with such investigations. The seminar was useful as a first step in identifying issues regarding systemic investigations and there will be a series of other seminars to focus on specific areas.

The Directorate is also working with other directorates to find ways of identifying and monitoring trends and systemic issues as they are evolving.

While changes in process and procedures can create certain efficiencies, other kinds of changes will be required if the Directorate is to continue to increase productivity. Investigators need to have access to computer terminals and an improved communication system. However, at some point, the workloads will become saturated if complaint load continues to increase.

Corrections continues to be an area which provides a high volume of complaints and inquiries. The Directorate has reorganized the method of dealing with these complaints by providing computer terminals to investigative researchers and assigning particular individual staff to institutions in specific regions of Ontario. This ensures quicker assignment of files and guarantees a regular number of timely visits to institutions which maintains the Ombudsman's clear presence. This method also helps to establish good working relationships with officials in individual institutions and early identification of systemic issues in an institution when they arise. A similar restructuring is planned with respect to provincial psychiatric institutions.

The following governmental organizations are considered by the Ombudsman and her staff to be **"Gold Star"** because of their timely responses to the Ombudsman's letters or reports, for providing relevant information, for extending cooperation throughout an investigation, for willingness to make improvements in policies, procedures, practices and guidelines. *The Ombudsman commends:*

- Family Support Plan
- Ministry of Transportation
- Ministry of Consumer and Commercial Relations

The following governmental organizations merit a **"Tarnished Star"** because responses to the Ombudsman are slow in coming, because relevant information is not always supplied, because of lack of cooperation in investigations, and/or for a reluctance to make recommended improvements in policies, procedures, practices and guidelines:

- Ministry of Environment
- Ministry of Health
- Ontario Human Rights Commission
- Ministry of the Attorney General

Other Commendations

The **Ministry of Natural Resources** has been working to ensure greater fairness and public involvement in its planning processes, and to develop mechanisms for conflict resolution in decision-making. As the Ministry notes in a discussion paper, "Often resource management disputes arise over conflicting or competing environmental, economic and social interests. In these disputes, the challenge is to reach a decision for long-term health and sustainability of natural resources." The Ministry also noted, "The Ombudsman for Ontario has on numerous occasions suggested that provincial agencies

incorporate dispute-resolution and appeal mechanisms into their decision-making processes." The Ministry is to be commended for its moves in making alternative conflict resolution methods recognized, understood, and readily available.

The **Rent Review Hearings Board** can take pride in putting itself at the forefront of Ontario administrative tribunals by adopting a realistic and attainable code of ethics/rules of conduct for its members. The adoption of the principles followed a meeting of the Ombudsman with the Chairperson.

The Ombudsman's Mission Statement sets out this goal:

"The Ombudsman is assisted in retaining the confidence of public and officials by a professional staff who uphold the same high professional standards expected of the Ombudsman herself. Through internal training and professional development programs, the Ombudsman provides opportunities for her staff to enhance their capacity to provide service to the public."

The staff complement of the Ombudsman remains the same as that of the predecessor Ombudsman: 129. That number is just seven more than that of the first Ombudsman appointed in 1977. In the intervening years, the number of inquiries and complaints has tripled. This means the current staff are working smarter and more efficiently in a period of fiscal restraint so that the people of Ontario can continue to receive a high quality of service from the Ombudsman. This year, six positions in Toronto were converted into district officer positions to offer improved service to the public.

In January, 1992, a number of new initiatives were launched to fill staff vacancies. A more consistent internal posting system allows current staff opportunities for promotion. Recruitment advertising encourages inquiries by telephone and fax transmission of resumés. Notices of vacancies are sent to grassroots community groups to attract candidates who reflect all sectors of Ontario's population. These and other new recruitment efforts based on employment equity principles will result in an Ombudsman staff which better reflects Ontario's diversity. Increasingly, the Ombudsman's staff includes persons with experience with grassroots community-based organizations and service providers who complement other staff who contribute organizational and bureaucratic experience.

The process for orientation of new staff has been improved, and groups of new employees are interviewed after they have worked for a time to provide for feedback as to how their orientation could have been improved still more.

For the first time, the Ombudsman is guided in making human resources decisions by a comprehensive, values-based strategic plan which is linked with the Ombudsman's workplans and



Julie Bertrand
District Officer

budgets at each level of the organization. A comprehensive plan to involve staff in improving all aspects of staff involvement in the Ombudsman's operations was launched with a staff opinion survey, administered by external consultants to ensure absolute confidentiality and anonymity. The survey examined fourteen different aspects of the Ombudsman's operations, including psychological working environment, recognition and rewards, employee development, goals, and communication.

The external consultants reported an overall impression that although the organization was experiencing problems in some areas, timely and proper remedial action could create substantial improvements which the majority of staff desired. A "Navigation Team" working group representing both management and staff, received the full results and was asked to establish priorities, make recommendations, and summarize work-in-progress. The Ombudsman committed to build these priorities into the 1993-94 workplans and budget.

Small task forces with equal representation of management and staff from each of our directorates have begun to research policy changes

related to employment equity; a flexible, compressed work-week in the context of extended hours of service to the public; job evaluation; performance management.

In addition, management and staff have begun a systematic review of all human resources policies. A new revised reference guide to policy and process will be issued in the next fiscal year.

In addition to training in alternative dispute resolution techniques, anti-racism and cultural sensitivity which they have received, staff expressed a need for more support with respect to short-term skill training, long-term career development, technological training, French language training, and lunch-hour learning sessions. Another training concern was that many managers and directors have had limited formal training in managing staff, particularly in a period

of change and transition. Many of these issues have already been addressed, and others are in progress. The Human Resources Directorate has developed a resource centre of seminar schedules, videotapes, tapes, and books for independent learning.

A new program, "Familycare" offers comprehensive information, resources, and a new support service to help staff obtain childcare or eldercare service needed to manage work and family responsibilities.

A Human Resources Information System assists the Directorate to manage records more effectively and efficiently. The system will provide management reports and assist in making communications more effective with individual staff members regarding benefits coverage.

We continue the process of progressive change through collective bargaining now under way. In January, Bill 40 came into effect, amending Ontario's labour laws with respect to collective bargaining and employment. In February, the Ombudsman's staff certified with the Office and Professional Employees International Union. The Ombudsman and staff hope to reach agreement on a progressive first contract which ensures that staff have participation in workplace decision-making and that the Ombudsman can achieve the standard of service set out in the Mission Statement.



Joyce Coolman
Computer Operator

The Ombudsman's Mission Statement sets out as a goal:

"The Ombudsman encourages governmental organizations to regard her as a creative resource for progressive government administration."

The staff of this directorate focused energies during the fiscal year on designing and implementing information systems so that the Ombudsman's staff would provide better service to the people of Ontario. A number of foundation-building projects will provide the basis for operational systems for the next five to ten years. Plans for the next fiscal year call for the Ombudsman's office to install a new comprehensive information system.

Voice Mail

To improve responsive communication with clients, voice mail service was established for fifty investigators and researchers.

Integrated Office System Design

With the 1988 contract for the office's computer system coming to an end, a major study was undertaken to develop a system which would incorporate word processing, inquiry and case management, financial accounting, intake and referral, electronic mail, information access, regional office communication, and public education.

An Integrated Finance System

All key financial operations are tied into one integrated system with three key elements.

An improved **Budget System**. A system was established for ground-up budget building by obtaining the valuable input of managers and staff of each of the 22 "cost centres" within the Ombudsman's operations. As a result, the final Estimates which the Ombudsman will present to the Legislature are more reflective of the needs of the organization, and all staff members have a greater appreciation of the budgeting process.

Forecasting and Monthly Monitoring System. On-going management of expenditures according to the budget will be possible with a new system which reflects the amount spent and commitments made at any point in time. Managers are polled each month to ensure all future commitments have been reported. This forecast is key in the management of expenditures and represents a different perspective for looking at the approved budget.

Improved Financial Reporting System. A move was made from dependence on the provincial government reporting system to our own in-house system. Financial information can be provided to decision-makers in a timely and accurate fashion. Many new reports were created for the unique Ombudsman operations.

A New Payroll System

To meet the Ombudsman's unique payroll requirements, a new payroll system will be contracted to a service bureau. The new system has electronic access, giving the Finance Directorate greater freedom of action and control over processing and reducing substantially the amount of manual work required.

Improved Statistical Reporting

A project was undertaken to address deficiencies and inconsistencies in reporting of the Ombudsman's statistics. The new reporting system presents numbers which have meaning through the use of charts and graphs. New statistical data are now being collected. The benefits of many of these improvements can be seen in the statistical section of this Report. Other changes will be put in place at the beginning of the next fiscal year.

Liaison with other Ombudsman

Since Ombudsman across Canada have similar financial management situations and needs for certain kinds of information systems, working relationships are being established with other offices which should prove to be mutually beneficial.

Selected case studies
illustrating the
Ombudsman's
work and
reasons for
complaint

Each person who asks the Ombudsman for assistance can expect to receive individual attention. There are too many cases for each one to be summarized in the Annual Report. The summaries which follow have been selected from the thousands of cases brought to the Ombudsman each year because they are illustrative in describing the sort of matters brought to the Ombudsman and how the Ombudsman and her staff do their work.

The name of the governmental organization involved in a case is not identified unless it is necessary for the summary to make sense, or where it is obvious which organization is involved, the name of the organization is given. Each of the cases described in this section were closed during this fiscal year.

Joe Semenciw
Records Analyst



For this year, in order of frequency, the most common issues people raise in their complaints to the Ombudsman are:

1. **Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence;**
2. **Adverse impact or discriminatory consequence of a decision or policy on an individual or group;**
3. **Harassment by a government official; bias; mismanagement; bad faith;**
4. **Failure to adhere to its own processes, guidelines or policies, or to apply them in a consistent manner;**
5. **Failure to communicate adequately or appropriately with client;**
6. **Unfair settlement imposed or coercion applied;**
7. **An inadequate or improper investigation was conducted;**
8. **Unreasonable delay;**
9. **Insufficient reasons for decision or no reasons given;**
10. **Denial of service;**
11. **Failure to keep a proper record;**
12. **Omission to monitor or manage an agency for which the governmental organization is responsible;**
13. **Failure to provide sufficient or proper notice.**

Sometimes the Ombudsman can help to resolve situations where legislative provisions seem to conflict. As the result of the Ombudsman's investigations and findings, amendments to legislation may be proposed.

Several property owners discovered they had been paying property taxes on an incorrectly-described building for some 27 years. They discovered the error in the Ministry of Revenue assessment when they appealed their property assessment under the *Assessment Act*.

According to the *Municipal Act*, had correction of the error required an increase in their taxes, the correction could have been made. But because a reduction in taxes would have resulted from the correction, the error was allowed to stand. The property owners asked the Ombudsman to look into this apparent unfairness.

The Ombudsman's investigation found that property owners should be entitled to consideration of their request for a property tax rebate for the two years prior to the year in which the error is discovered.

However, the wording of an amendment to the *Municipal Act* prevented consideration of rebate requests if the error had been brought to the property owner's attention as a result of their launching a property assessment appeal.

The Ombudsman did not consider this combination of legislation to be fair. However, settlement became complicated because the Ministry had made errors in its record retention process and could not document whether errors had occurred in the two-year period prior to their discovery. The Ministry agreed to a cash payment to the property-owners. It also agreed to implement a revised record retention schedule to ensure that property assessment records would be retained until all rebate possibilities to which they would apply had expired.

The problem of conflict in the legislation has been brought to the attention of a joint committee which includes the Ministries of Municipal Affairs and of Revenue to review the legislation affecting municipal tax rebates. The Ombudsman has advised both ministries that taxpayers should be entitled to the same rights of having errors corrected when their property taxes are affected in the same way that municipalities enjoy.

Sometimes the Ombudsman can assist persons to find their way through the jurisdictional maze of the governmental organizations.

Ms. E works for an organization which operates, in part, under federal legislation. When she had a human rights complaint, she took it to the Canadian Human Rights Commission. It suggested she should see the Ontario Human Rights Commission (OHRC). A debate followed between the two organizations as to who had jurisdiction, and neither commission was willing to take a complaint from Ms. E. She asked the Ombudsman for assistance.

The Ombudsman made inquiries, and was able to determine that the Ontario Human Rights Commission did have jurisdiction. The OHRC wrote Ms. E to confirm its willingness to receive her complaint.

Fairness requires that governmental organizations interpret policies, regulations, and laws on a reasonable basis.

Example 1: Mr. A, a real estate and business broker, relocated his office from Toronto to a metropolitan community. When he applied for a renewal of his status as a Commissioner for taking affidavits, he received a letter from the Ministry of the



Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence

Attorney General refusing the renewal. The Ministry said that since he was in a new jurisdiction, a re-appointment would be necessary, and that Mr. A. did not meet certain new criteria. Mr. A. believed this action was unreasonable, because he thought that jurisdiction as a commissioner was unaffected by the relocation. He wrote to the Ombudsman to ask for assistance.

When the Ministry was advised the Ombudsman intended to investigate the matter, it did a second check. The Ministry reported that Mr. A's application for renewal had been refused in error, since the new criteria applied only to new appointments, not to re-appointments. Mr. A. received a renewal of his commission.

Example 2: When Mr. F retired as a teacher, benefits were calculated for his own pension and, if he should die first, for a survivor's pension for his widow. After his retirement, Mr. F's wife died, and he married for a second time. The Teachers' Pension Plan Board informed him that, if he wished to provide survivor's benefits for his second wife, there would be an additional cost. As a result, Mr. F's own pension was reduced to pay for the new benefit.

Mr. F considered that decision unfair, because his first wife would have been entitled to a survivor's pension without any further reduction in his own pension. He also believed that it was unfair that his reduced pension would continue for the rest of his life, even if his second wife died before he died.

The Ombudsman investigated. She found that the calculation of pension benefits is based on the terms of the plan and information from insurance actuaries, who take into account the expected lifespan of both the pensioner and spouse. Because of the remarriage, the actuarial basis of the calculations and the expected cost to the pension plan changed, since Mr. F's second wife was younger than his first wife, and would be likely to receive pension benefits over a longer period of time than was originally calculated.

The Ombudsman noted that the Ontario Teachers' Federation did not find this requirement unreasonable. She also found the fact that the reduction continued for life was based on standard insurance principles. As well, she found that if Mr. F's pension were not reduced to cover the additional cost of his second wife's survivor's pension, there would be a negative impact on other members of the pension plan.

In the light of these findings, the Ombudsman decided that the Board's decision was not unreasonable.

Example 3: Mr. X came to the Ombudsman to complain that the Workers' Compensation Board (WCB) had not correctly interpreted a decision of a Workers' Compensation Appeals Tribunal.

Originally, the Board had denied Mr. X entitlement to disability benefits stemming from a 1977 accident. Mr. X spent several years appealing that decision to the Tribunal. Eventually, the Tribunal granted his appeal and sent its decision back to the Board to be implemented. The Board interpreted the decision as being in its favour, however, and refused to issue benefits to Mr. X. It told Mr. X that if he wasn't satisfied, he could once again start out on the lengthy process of appealing to the Tribunal.

In total frustration, Mr. X asked the Ombudsman for assistance. Both the Board and the Tribunal confirmed that the only procedure available was to begin another appeal. The Ombudsman suggested to the Board's legal counsel that the appeal

procedure was intended to address disagreement with interpretation, but in Mr. X's case, the problem was an *erroneous* interpretation. The Board's counsel accepted it would be unreasonable to place the onus on resolving this error on the injured worker.

As a result, the Board agreed to overturn the erroneous interpretation. Mr. X received three cheques for retroactive benefits and interest totalling \$34,000.

Example 4: Mr. Q passed his hunter's safety course in a small northern Ontario town, and as a result, he bought his hunting license. Shortly afterwards, Mr. Q moved to Southern Ontario where he lived for four years.

When Mr. Q relocated back to Northern Ontario, he wanted to buy a hunting license. The Ministry of Natural Resources denied his request because they had no record he had ever passed the hunter's safety course. Mr. Q offered to provide sworn statements from two Ministry employees who knew he had passed the course and had a previous hunting license, but the Ministry stood firm in its refusal.

Mr. Q asked the Ombudsman's staff for assistance. Following informal inquiries, the Ministry agreed to accept a sworn statement from an MNR employee and Mr. Q received his hunting license.

Often the Ombudsman is asked to investigate what appear to be unreasonable delays.

The progressive nature of Mr. T's medical disability caused the Ministry of Transportation to suspend his driver's licence. It requested further medical information from Mr. T so his ability to drive could be assessed. Mr. T submitted all the required documents, and his licence was scheduled to be reinstated as of a certain date. However, a month after that date, Mr. T still had not received his reinstatement notice. When he called the Ministry, he was advised that his reinstatement was still "held up". He asked the Ombudsman to investigate.

The Ombudsman contacted the Ministry. The Ministry found it had misinterpreted certain medical reports. The Ministry apologized to Mr. T for the delay and his licence was promptly reinstated.

The Ombudsman's investigation may find that a governmental organization reached its decision properly.

Mr. R applied to purchase pension credit for a period of employment during which he had not contributed to his Ministry's pension plan. The Ontario Pension Board processed Mr. R's application within three months of having received all the documents. Meanwhile, Mr. R received some retroactive salary increases. The Pension Board used the higher salary level in calculating Mr. R's pension contributions. Mr. R believed this was unfair and that the salary he was receiving when he signed the application should have been used in the Board's calculations of the cost of pension credits he was buying. He asked the Ombudsman to investigate.

The Ombudsman did investigate and found that the Board's practices were not unreasonable. The initial application is not the basis for determining the salary level on which to base the calculation. The Ombudsman found that the Board's use of the actual salary truly reflected the cost of the buy-back, and that assessing this cost to Mr. R was not unreasonable.

Adverse impact or discriminatory consequence of a decision or policy on an individual or group

While the Ombudsman does not take an advocacy role with respect to individual cases, she is an advocate for the highest possible standard of administrative fairness and can often bring about change in the way things are done.

Ms. M and her children lived in a Housing Authority home which was leased in her husband's name. When an abusive situation had developed and her spouse had left, the rent was not being paid. The Housing Authority issued an eviction order.

Ms. M then applied for housing for herself and the children under the Special Priority Policy for Assaulted Women. When it seemed that the Housing Authority intended to proceed with the eviction before her application under the priority policy had been dealt with, Ms. M asked the Ombudsman for assistance.

After conducting her investigation, the Ombudsman concluded that the Housing Authority had not taken reasonable steps to verify Ms. M's application under the special policy.

As well, the Ombudsman found the Ontario Housing Corporation/Ministry of Housing had failed to ensure that all Housing Authorities understood and consistently applied the Special Priority Policy for Assaulted Women. She suggested a directive be issued to the Authorities.

The Ombudsman also recommended that the Ontario Housing Corporation/Ministry of Housing undertake an evaluation to determine the manner in which the Special Priority Policy was being implemented by Housing Authorities. Both governmental organizations agreed to act upon the Ombudsman's recommendations.



Vic Marcuz
Assistant Director

Fairness means that policies should be applied consistently.

The III Corporation is a company which cleans empty drums, crushes them, and recycles the material as scrap. Because this could generate wastes which could be harmful to the environment, the Corporation is subject to stringent pollution controls enforced by the Ministry of the Environment.

III Corp. became aware that firms which recondition the same type of drums for re-use had been granted an exemption from these strict controls, even though they generate the same kind of harmful wastes. The company complained to the Ombudsman that this inconsistency was not fair.

The Ombudsman discussed the matter with the Ministry. It agreed to end the exemption that the reconditioners had enjoyed.

The Ombudsman's intervention can cause a governmental organization to re-examine its policies and procedures when the investigation finds flaws which could cause future problems.

Example 1: Mr. U had sent some bulls to a provincially-sponsored testing station. The station refused to accept the bulls because Mr. U had failed to conform to a requirement the station had insisted upon for several years. Mr. U had to send the bulls to another test station over 600 miles away. While the Ministry of Agriculture and Foods pays a transportation subsidy to assist farmers in sending bulls to the test station, the maximum distance covered is 500 miles, and that is all it would pay Mr. U.

Mr. U felt he had been treated unfairly, especially since the first testing station is the only one in the province which had the particular requirement which he failed to meet. In fact, the Ministry later ordered the station's policy to be discontinued. He asked the Ombudsman to investigate.

The Ombudsman did investigate, and advised the Ministry it had acted unfairly in limiting Mr. U's transportation subsidy to 500 miles since his bulls had been denied entry because of a policy the Ministry itself found unacceptable.

However, the Ombudsman also found that Mr. U was aware of the 500-mile limit, should have consulted with the Ministry before deciding to send his bulls to the more distant station and incurring significant extra transportation costs.

The Ombudsman recommended that the Ministry share with Mr. U equally the extra transportation costs beyond the 500-mile maximum. The recommendation was agreed to.

Example 2: Mr. G came to the Ombudsman's district office in his area to express his annoyance with the Family Support Plan. He understood that an amount would be deducted from his pay for the support of his family. The problem was that the deduction appeared on the cheque stub in the column "Garnishee", which held negative connotations that he was unwilling to pay. Mr. G felt his reputation was being damaged.

The Ombudsman's staff contacted the Family Support Plan to find Mr. G's situation was not unique. It was a province-wide problem which needed to be addressed. The Ombudsman's staff then made informal inquiries of the employer, a large corporation. As a result, the employer agreed to change the coding on the cheques so in the future similar deductions will appear on the cheques of Mr. G and all other employees in a column headed "Support".

**Harassment by
a government
official; bias;
mismanagement;
bad faith**

Although all complaints are treated seriously by the Ombudsman, complaints of abuse and related cover-ups require special attention.

Several individuals approached the Ombudsman regarding a governmental organization's earlier investigation of allegations of staff abuse and the condoning of abuse by a manager. The institution is in a rural area, and is home to many disadvantaged individuals.

In cases such as these, the Ombudsman's role is not to reinvestigate every element of the original allegations, but rather to assess whether the allegations had been dealt with appropriately. For example, the administrator's actions are checked against the organization's own standards and guidelines. These guidelines are also compared with standards and guidelines used by other organizations. As well, the decision-making process is examined for fairness.

In this instance, an extensive and comprehensive investigation of the allegations led the Ombudsman to conclude that the organization's own investigative processes were fair, and that the complaints could not be supported.

Sometimes as the result of the Ombudsman's investigation, officials take action to ensure an existing policy is correctly followed in the future.

When Ms. W entered a provincial detention centre, she was told to strip so she could be searched. This is the standard procedure used in all correctional institutions for new admissions. Ms. W refused to strip and be searched. As a result, male correctional officers were summoned to assist while she was being searched.

Ms. W complained to the Ombudsman that it was wrong to have male officers present and assisting in the search. She also complained that it was unreasonable for the strip search routine to be applied upon admission to the institution.

The Ombudsman investigated Ms. W's complaints. She concluded that the detention centre officials had not acted unreasonably by requiring new inmates, including Ms. W, to submit to a strip search, since otherwise there would be potential for contraband to be brought into the institution.

The Ombudsman found that the use of male officers in the search of Ms. W was both wrong and contrary to law. The Ombudsman recommended that the Deputy Minister of Correctional Services provide Ms. W with a letter of apology. The Deputy Minister agreed with the recommendation, and the letter was sent.

Mr. T contacted the Ombudsman because his Family Benefits had been suspended because his entitlement was in question.

Mr. T's case worker had told him that his eligibility would be reinstated if he provided Social Services with his authorization for the police to disclose a report of a situation in which he was involved. Mr. T had refused to give authorization because he believed the police report was irrelevant to his eligibility for benefits.

The Ombudsman's staff made informal inquiries and learned Social Services was interested solely in the police officer's determination of Mr. T's residence and the residence of his spouse. No other part of the report was of interest. Social Services agreed to accept as sufficient an authorization to disclose which was limited exclusively to the residency of the two spouses. Mr. T agreed to provide this authorization.

Ms. S's car went out of control on a patch of ice and hit two guard rails. Although she was not charged as a result of the accident, the Ministry of Transportation sent her a bill for \$110.40 for damage to the guard rails. She paid the bill, but she complained to the Ombudsman that the Ministry had been unreasonable to request payment since the accident had occurred as a result of weather conditions. If she had been at fault, she said, she would have been charged.

The Ombudsman made initial inquiries. The Ministry agreed that under the circumstances, it should use its discretionary powers to waive the charge. It reimbursed Ms. S the full amount she had paid.

Mr. N worked for ten years with companies who had contracts with a governmental organization. It was the practice of the governmental organization to approve of the employees hired by the contracted companies. Mr. N wrote to the Ombudsman to complain that approval for him to continue working had been unreasonably withheld.

The Ombudsman investigated and found the reason the governmental organization had withheld approval for Mr. N to continue his work was because of allegations that Mr. N had been involved in a particular incident in the past. The Ombudsman's investigation found that the allegations against Mr. N could not be substantiated.

The Ombudsman tentatively concluded that the decision of the governmental organization had been unreasonable, and recommended that it pay Mr. N \$10,000 to settle the matter, or that it pay him \$2,500 for the losses suffered and authorize the contracting company to return him to his employment. The governmental organization agreed to the latter alternative.



Jeanne Ang
Word Processing
Operator

**Failure to
adhere to its
own processes,
guidelines or
policies, or to
apply them in a
consistent manner**

Fairness requires that a governmental organization adhere to its own processes, guidelines, and policies, or apply them in a consistent manner.

Example 1: When a ministry called for tenders for trucking services, Mr. and Ms. E submitted their bid. After the call for tenders had closed, the ministry changed the rules, explaining that the change would make the process fairer to all competitors. Mr. and Ms. E considered this unfair, because they believed they would have won the contract under the rules in place when they submitted their bid.

The Ombudsman investigated. She found that although the rule changes did remove an unfairness in the existing system, changing them after bids had closed meant that Mr. and Ms. E had made their bid under one set of rules, only to have decisions made under another set of rules.

When the Ombudsman advised the ministry that it appeared Mr. and Ms. E were treated unfairly, the ministry agreed that the process had been flawed and offered compensation. Mr. and Ms. E agreed to negotiate the amount of compensation directly with the ministry.

Example 2: Mr. B was a tourist outfitter who had for a number of years operated a bear hunt in his area. In 1988, the Ministry allocated specific “Bear Management Areas” to outfitters. Mr. B received his regular area, but another outfitter who had hunted the area for a short time appealed the decision to the Bear Management Committee. It ruled that the second person was also entitled to a portion of the area both he and Mr. B had used. Mr. B felt this was unfair, and he asked the Ombudsman to investigate.

The Ombudsman found that the Committee had been inconsistent in its application of eligibility criteria. In Mr. B’s case, it had taken into account considerations which were not included in the criteria. She therefore concluded that the Arbitration Committee had been unreasonable.

However, the Ombudsman also recognized that the second outfitter had been using the area for some time. The Ombudsman recommended that Mr. B should be allocated the next suitable BMA which became available. The Ministry undertook to do so.

Sometimes the Ombudsman is called upon to investigate losses of personal property in provincial correctional facilities with a view to recovery or provision of compensation.

When Mr. G was admitted to a correctional facility, he had five pieces of jewelry. The staff recorded each item in accordance with the Ministry of Correctional Services guideline. After Mr. G was sentenced, he was transferred to another institution, where staff again inventoried these belongings.

When Mr. G was transferred to a third facility, he did not have the opportunity to examine his property either upon his departure or his arrival. He signed the property sheets without being able to verify his belongings. Shortly before his release, Mr. G asked to see a copy of his file. He immediately noticed that the third institution had not recorded his jewelry. When he complained, the third institution said he would have to take his complaint to the second institution.

When Mr. G was released, he did complain to the second institution, but without success. He complained to the Ombudsman about the loss of his property.

The Ombudsman's investigation revealed that Mr. G did not have any access to his property after it was taken from him upon admission to the very first facility. Since the Ombudsman concluded that the Ministry should be responsible for providing reasonable care for inmate property, she recommended that the Ministry negotiate an agreement with Mr. G. The Ministry accepted the recommendation, and arrived at a financial settlement with Mr. G.

Even an informal resolution of an individual's complaint can bring about wide-ranging remedial action which can benefit many others when the Ombudsman's process identifies problems at an early stage, permitting the governmental organization to take appropriate action in a timely fashion.

Mr. N purchased magazines while he was confined in a jail. When he was moved to a detention centre, the magazines were taken from him to be held with other personal property until his release. While he was at the detention centre, he purchased an eraser and a soap dish. When he was subsequently transferred to another jail, these items were also taken from him to be held until his release, because this institution did not sell or allow inmates to have these items in their possession.

The Ombudsman contacted the regional office of the Ministry of Correctional Services. The Ministry reported that while the Ministry establishes a basic canteen list, individual institutions may add to the list. The Ministry agreed that the lack of consistency at the various institutions was a source of frustration for the inmates. It undertook to discuss this matter with the Superintendents in the region.

In investigations of tribunals, the Ombudsman reviews the process by which a decision is reached.

Mr. P complained to the Ombudsman that the Workers' Compensation Appeals Tribunal (WCAT) had unreasonably refused to increase his permanent pension for noise-induced hearing loss.

She found that several factual errors seemed to have been made by the original panel which considered Mr. P's claim. Among these errors were overlooking relevant Workers' Compensation Board policy and incorrect evaluation of the medical reports of Mr. P's hearing loss.

When the Ombudsman wrote WCAT of her tentative conclusions, it appointed a new Panel to consider the matter. Following its review, the Panel found that the Ombudsman's concerns with the original decision were valid. It directed that reconsideration be granted, and a new hearing be held.

Sometimes persons living in other provinces request the Ontario Ombudsman to assist with problems involving Ontario governmental organizations.

Mr. U lived in Quebec. He was the beneficiary of a family support order which had been issued in Quebec. However, the funds were being paid through the Family Support Plan in Ontario.

Mr. U had received notice from the Ontario Plan that enforcement was to be suspended pending verification from the Quebec Plan that Mr. U continued to be entitled to receive ongoing support and accumulated arrears. Mr. U was not aware of any reason why his eligibility should be suspended. He asked the Ombudsman to investigate.

The Ombudsman made informal inquiries with the Ontario Plan. The support payer had written compelling letters and supplied accompanying evidence claiming that Mr. U was no longer entitled to receive support. The Ontario Plan discontinued attempts to obtain a wage deduction order pending verification from Quebec that Mr. U's eligibility did continue.

The Ontario Plan said its usual policy was to continue enforcement until confirmation is received from the support recipient that entitlement to support has ended. In this case, however, the support payer's letters were so strongly compelling that the Plan had used discretion to stop enforcement.

The Ombudsman's investigation determined that the legislation governing the Plan required the Director to "continue to enforce support obligations . . . until he or she receives a copy of the court's decision terminating the support obligations."

After further discussions, Plan officials conferred with legal counsel. As a result, the Ombudsman was informed that the Plan would continue to enforce the Support Order and to make payments to Mr. U. The support payer was informed that if she wished to vary or terminate her obligation to support, a court order was required.

Sometimes public servants ask the Ombudsman for assistance in relation to complaints regarding their employment.

Mr. H came to the Ombudsman with a number of complaints about the Ministry which employed him. First of all, he was dissatisfied with the manner in which the Ministry had administered his benefits following his injury at work. Second, he was dissatisfied that upon his return to work after being on Workers' Compensation he was placed in another position which involved travelling and otherwise was not appropriate to his physical condition at the time. Third, he objected that when he requested to buy his pension credit, the processing was delayed. Finally, he contended the Ministry had withdrawn money from his bank account without notice to him. Mr. H was once again receiving Workers' Compensation benefits.

During the course of the Ombudsman's investigation, the Ministry agreed that some administrative errors had been made with respect to Mr. H, but that the errors were subsequently rectified. Nonetheless, the Deputy Minister wrote to Mr. H to apologize for the errors, and to set out steps which the Ministry had taken to improve its management of Workers' Compensation claims for all injured staff. With regard to the pension issue, the Ministry acknowledged there was a delay in processing, and provided Mr. H with the reasons. The overall problem was rectified.

Mr. H then wanted assurance regarding his future work relationship with the Ministry. The Deputy Minister again wrote to him to provide him with assurances should Mr. H be able to return to work.

The Ombudsman's investigation was unable to support Mr. H's allegations regarding the withdrawal of money from his bank account or his placement following his return to work.

**Failure to
communicate
adequately or
appropriately
with client**

Sometimes the Ombudsman can bring together complainants and staff of government agencies so that they can resolve problems at an early stage.

Mr. K contacted the Ombudsman over a dispute with Family Support Plan officials who insisted he owed them nearly \$4,000. Mr. K's own calculations showed he had actually overpaid the program by \$1,000.

The Ombudsman suggested that Mr. K should first try to work out the problem with the officials. He engaged in several exchanges of correspondence, but he was unsuccessful in reaching a resolution or in obtaining an explanation of how the arrears had been calculated.

Although the program does not normally allow for meeting with complainants directly, the Ombudsman encouraged the Enforcement Manager assigned to his case to meet personally with Mr. K in an effort to help him understand how FSP had calculated the arrears.

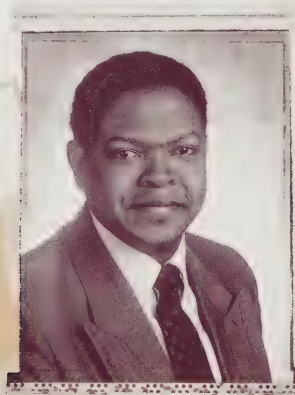
Persons who live in Ontario's small towns and northern communities often find themselves isolated from assistance which people in urban areas take for granted and they turn instead to the Ombudsman's district offices for assistance.

Mr. P was discharged from a general hospital in August, 1992. His finances were in the hands of the Public Trustee, however, and although \$300 was released to him, this was not sufficient for him to find an apartment. As a result, Mr. P said he could not leave the hospital.

The hospital's social services department attempted to remedy the situation, but it was unsuccessful. Finally, after Mr. P had remained in the hospital four weeks after his discharge, the hospital called the Ombudsman's district office on Mr. P's behalf.

The Ombudsman's staff made informal inquiries and clarified the situation with the Public Trustee's office. As a result, sufficient funds were released to Mr. G so he could rent an apartment and leave the hospital.

Calvin Blackwood
Investigator



Sometimes people encounter problems as a result of combined errors of several different governments, and the Ombudsman can coordinate the efforts of officials at all levels to resolve the issue.

One such case involved the Family Support Plan (FSP) in Ontario, and the same office in another province, the Unemployment Insurance Commission, the federal Department of Justice, and Canada Post.

Mr. A's federal unemployment insurance cheque had been withheld for processing of family support deductions for arrears from a federal garnishment order obtained by the provincial FSP.

Mr. A had insisted that the recipient of those deductions had withdrawn from the plan, that he had been making payments directly, and he was not in arrears. He produced cancelled cheques and a copy of the withdrawal letter to support his contentions. He also felt it was unfair that he had not received any prior notice of the proposed action by the FSP.

Mr. A asked the Ombudsman to investigate. It was determined that the Ontario Family Support Plan was seeking to correct arrears for another provincial plan. This plan thought Mr. A was ignoring its letters, since they had never been returned. A check revealed the local postmaster had been saving the letters awaiting Mr. A's eventual return. Mr. A picked up the old mail, and confirmed the closing of his post office box.

That mystery solved, the Ombudsman contacted the Family Support Plan in the province where the recipient resided. It was determined that the recipient had indeed received the payments, that the account was not in arrears, and she had withdrawn from the Plan.

This information was then communicated to the Ontario FSP, which in turn advised the Federal Department of Justice to withdraw the Garnishment Order so that the Unemployment Insurance Commission could pay Mr. A his full benefits. The funds which had been garnisheed were returned to him.

As a resident of Ontario who is over the age of 65, Mr. K had been receiving benefits under the Ontario Drug Benefit Program. In preparation for a move to another province, he contacted the Ministry of Health, and applied for a transfer of his Ontario Health benefits. By doing so, he thought his Ontario benefits would remain active for three months after the move.

However, the three-month transition applied only to Mr. K's hospital and medical benefits. The medicine benefits are normally terminated at the end of the month in which a person ceases to be resident in the province. When he learned he would not be reimbursed for medicines he purchased soon after the move to the new province, Mr. K complained to the Ombudsman.

When the Ombudsman contacted the Ministry, it agreed the different rules for the two plans might not have been clear to Mr. K, leading him to expect he would be covered for the medicine he purchased. The Ministry agreed to provide "special reimbursement" according to the rules of the Program.

The Minister of Housing issued an Order requiring Ms. F's landlord to suspend and forfeit rents because of non-compliance with substantial maintenance standards identified by the Residential Rental Standards Board. The landlord subsequently appeared before the Rent Review Hearings Board, which overturned the Minister's order. Ms. F felt the Hearings Board was unreasonable in its decision, and asked the Ombudsman to investigate.

In investigating a tribunal, the Ombudsman investigates the manner in which it arrives at the decision, rather than the decision itself. She reviewed the information which had been before the Board, as well as the information which it had relied upon in reaching its decision.

The Ombudsman learned that the landlord had informed the Board that the maintenance items had been substantially completed, and a municipal bylaw enforcement officer had given evidence supporting this fact. Ms. F had not appeared at the hearing to give any evidence to the contrary.

The Ombudsman concluded that, on the basis of the information before the Board, its decision to overturn the Minister's Order was not unreasonable.

Ms. F had also complained that the Board had failed to accept her request for a postponement of the hearing and to have the matter heard by a three-member panel. The Board felt Ms. F's reasons did not justify the postponement, and the request was not made in a timely fashion.

The Ombudsman concluded that the denial of the postponement was not unreasonable. However, she did suggest to the Board that the information it provides to applicants could be made clearer in terms of setting out the time limitations for making a request for a three-member panel to hear an appeal.

When Revenue Canada told Ms. G she owed income tax from a previous year because she had not declared \$2,500 as shown on an income statement provided by the Government of Ontario, Ms. G wanted to track the statement down. Unfortunately, the payor number which would identify which government agency had issued the statement had been inked out.

Ms. G asked an Ombudsman's District Office for help. The Ombudsman in turn called upon the assistance of the Ministry of Government Services, the Ontario Pension Board, and the Ministry of Labour. It was discovered that Ms. G had been issued a cheque under the Employee Wage Protection Program, but she had never received either the cheque or the statement enclosed with it because she had moved. Ms. G had assumed she had not qualified under the Program.

The Ombudsman's staff told Ms. G how a second cheque could be issued to her. Ms. G said she planned to inform her former co-workers and her former union of her good fortune, as she believed others had also not received their cheques.

An unfair settlement imposed or coercion applied

Persons may complain to the Ombudsman because they consider their treatment by a governmental organization to be oppressive.

Ms. V had obtained a court order obliging a Housing Authority to transfer her and her son to a housing unit within 90 days. When the Authority failed to comply with the order, Ms. V complained to the Ombudsman. She also complained that the conduct of the Authority employees towards her was unreasonable, and that allegations against her of non-payment of rent were untrue.

The Ombudsman investigated, and found sufficient information to support Ms. V's contentions. The Ombudsman found that the behaviour of the Authority fell below acceptable standards of conduct for a governmental organization. The Ombudsman recommended that the Authority issue a letter of apology to Ms. V and compensate her with a \$500 payment for the unsettling effect of unacceptable behaviour by Authority personnel. The Authority agreed to implement the Ombudsman's recommendations.

Sometimes the Ombudsman's intervention can resolve problems which go beyond the actual complaint.

Ms. G, a recipient of Workers' Compensation benefits who had a large family and low income, complained to the Ombudsman of delays in receiving her compensation cheque.

The Ombudsman inquired, and the cheque was issued. However, Ms. G had been previously overpaid by Unemployment Insurance and Social Assistance, and those agencies were recovering those amounts by attaching Ms. G's Workers' Compensation benefits. Under these circumstances, Ms. G would have been left with no income from any source for several months.

In reviewing the situation, the Workers' Compensation Board acknowledged a mistake had been made in organizing a proper deduction schedule. It re-evaluated Ms. G's monthly entitlement to ensure that deductions would not cause undue hardship.

Zalina Deodat
Administrative Assistant



Sometimes it is necessary for the Ombudsman to take her recommendations to the Premier when a governmental organization refuses to implement them.

Ms. Q sustained flooding damage to the tourist camp she owned when a provincial government organization released ice from an upstream culvert. She submitted a damage claim. The agency conducted an internal investigation, and concluded that while it had caused waters to be released from the culvert, it was not responsible for the flooding damage. Ms. Q asked the Ombudsman for help.

The Ombudsman reviewed all circumstances present on the day of the flooding incident. Several factors were identified which led her to conclude the decision to deny compensation to Ms. Q was unreasonable. The governmental organization took seven months after receiving the Ombudsman's tentative conclusions to conduct an engineering study. The Ombudsman's review of the study did not give her reason to alter the recommendation that compensation be paid to Ms. Q and she issued a final report. When the agency still refused to implement the Ombudsman's recommendation, the Ombudsman took the matter to the Premier. Shortly afterwards, the agency informed the Ombudsman that her decision that Ms. Q be remunerated would be implemented.

During a holiday in northern Ontario, Ms. H's truck and trailer were badly pitted as a result of very poor and hazardous road conditions along a section of highway under construction. Ms. H drove as carefully as she could, but damage occurred nonetheless. Ms. H asked the Ministry of Transportation to compensate her for the damages. The Ministry disclaimed liability, stating that the road's condition was the responsibility of a private company doing the construction work. When the Ombudsman notified the Ministry of her intention to investigate, the Ministry reviewed the matter, and found that at the time the damage occurred, the contractor had experienced mechanical problems with equipment used to make the roadbed. This equipment failure could have contributed to the damage. The Ministry agreed to pay Ms. H's claim.

*When an OPP officer harassed her daughter and then lied about his conduct, Ms. O complained to the OPP. Her complaint was sustained. She was upset when she learned the officer had received counselling and a verbal reprimand since she believed that the misconduct required a more severe penalty. After her investigation, the Ombudsman concluded that the penalty was in fact inadequate. However, because of the accepted principle that an employer may not impose more than one penalty for the same offence, the Ombudsman could not recommend a more severe penalty should be applied in this specific instance. The Ombudsman did recommend that OPP members responsible for conducting investigations of public complaints should receive additional training focusing on the special requirements of policing in small communities, the need to be sensitive to the public, and the importance of applying a penalty to reflect the seriousness of the misconduct. The Commissioner of the OPP agreed to implement this recommendation by having an expanded training session for members responsible for reviewing public complaints. As well, the lowest possible penalty became an admonishment consisting of verbal counselling and a notation to be placed on the officer's record for two years. Since Ms. O filed her complaint, the *Police Services Act* was passed, and now, all public complaints are reviewed by the Commissioner, who is responsible for determining the appropriate penalty.*

Unreasonable delay

Ms. N had experienced several delays in obtaining her Ontario Student Assistance Program funding. When she was told she would not be allowed to write her final exams the following week if the cheque did not arrive, Ms. N contacted the Ombudsman's district office for assistance. After several calls, the Ombudsman's staff was able to advise Ms. N the cheque would be in her hands by the end of the week so she could complete her academic year.

Ms. O was notified that an overpayment was about to be deducted from her disability pension. She advised her caseworker that she wished to contest the deduction, and that in the meantime, the size of the deduction being made would cause her hardship. The caseworker agreed to make an amendment of the amount, and a cheque was to be issued to cover the excessive amount already deducted.

When weeks passed and the cheque had not arrived nor had the Social Assistance Review Board hearing been scheduled, Ms. O contacted the Ombudsman's district officer in her area. The Ombudsman's staff made inquiries. Arrangements were made for the refund cheque to be issued. Also, the application form for a Review Board hearing was provided since Ms. O was unaware that formal application was required.

Two students, Ms. Q and Mr. R, awaited Ontario Student Assistance Plan (OSAP) funding while they began classes at a private vocational school. When the funding continued to be delayed, the school began to charge 2% compounded monthly interest on the late payments. Ms. Q had accumulated \$1,400 in late payment fees before the funding finally came through.



Tim Arkell
Investigator

The students complained to the Ombudsman about the delays. The Ministry of Colleges and Universities, which is responsible for OSAP, told the Ombudsman the delay the students had encountered was only one month more than normal. It reported that publicly-funded colleges and universities waive late payment fees for students awaiting OSAP funding, but there is no regulation which obliges private schools to offer the same kind of waiver.

The Ministry offered to speak to the operator of the private school to see if a negotiated settlement could be reached. In both cases, the students received partial reimbursement of the penalties they had been charged.

Mr. and Ms. C had recently immigrated to Canada. Their previous drivers' licences were about to expire. However, when they went to the Ministry of Transportation to obtain new licences, they were advised they would have to wait a couple of months before they could take their driving tests.

The C's contacted the Ombudsman, since they needed their licences in order to maintain their jobs.

The Ombudsman contacted the Ministry. It agreed to reschedule the tests at a much earlier date.

While some complaints brought to the Ombudsman's district offices require a formal investigation, many others are resolved informally by the district office staff.

Example 1: In November, 1991, Mr. X had filed a claim under the Employee Wage Protection Program with the provincial Ministry of Labour. In the spring of 1992, Mr. X was informed that his former employer was under federal jurisdiction, and that his claim had been transferred to Labour Canada. He asked the Ombudsman's district office for help.

The Ombudsman's staff made inquiries about the jurisdiction for Mr. X's claim, and as a result, the matter was returned to the Ontario Ministry. In January, 1993, Mr. X again contacted the Ombudsman because of unreasonable delays in receiving the entitlement cheque which resulted from his claim. Once again, informal inquiries were made by the Ombudsman's staff. Mr. X received a cheque for \$1,500 within a few days.

Example 2: Ms. Y sent an amendment form with the required fee to the Registrar General's office in December, 1990, so that the spelling of her son's name could be corrected on his birth certificate. Because Ms. Y had not received the new certificate in February, 1992, she contacted her MPP for assistance.

The Member was told the original form had been misplaced, and a second one was provided. This form met the same fate as the first despite two follow-up letters sent by the MPP.

When Ms. Y was told she must submit a third form and pay the required fee once again, she asked the Ombudsman's district office for assistance. Staff made inquiries directly with the Registrar General officials, who found that the requested amendment had indeed been made. A corrected birth certificate was immediately issued without payment of any further fee.

Insufficient reasons for decision or no reasons given

Sometimes the Ombudsman can assist persons to obtain sufficient reasons from a governmental organization as to why a decision was made.

Several persons contacted the Ombudsman regarding a decision of the Ministry of Municipal Affairs to approve a resource extraction permit for a local brick company. The decision had reversed the recommendation of a hearing officer from the Niagara Escarpment Commission. The complainants had concerns both with the process by which the Minister arrived at a decision, and the potential environmental effects of the decision. A development permit had already been issued and construction was underway.

The Ombudsman's investigation determined that while the Ministry of Municipal Affairs was responsible for the Niagara Escarpment Commission when the decision had been made, the Ministry of the Environment had assumed responsibility for the Commission. She expressed her concerns to both ministries and her finding that the Minister of Municipal Affairs had not provided any reasons for his decision.

The Ombudsman recommended that adequate reasons addressing all relevant planning and environmental issues should be given when decisions are made. The Ministry of the Environment agreed with the recommendation, and advised it is now providing reasons for any decisions which are contrary to the recommendations of a Hearings Officer. The complainants also received reasons why the hearing officer's decision had been reversed.

Fairness means that a person should be given reasons as to why a governmental organization made a decision which affects that person.

Mr. D had requested on behalf of an organization that a provincial transportation agency lease it certain equipment. The agency refused the request. Mr. D asked the Ombudsman to investigate the refusal.

The Ombudsman did investigate, and found that the agency had acted reasonably in refusing the request. However, she found that the agency should have provided adequate reasons for rejecting the request, and it had not done so. The agency agreed to provide Mr. D a comprehensive explanation of the rationale for its refusal, and also clarified the conditions under which it would lease its equipment.

Ms. B complained to the Ombudsman that the Public Trustee had refused to honour a commitment it had made to her.

When Ms. B had been asked to travel from her home in the U.S. to Ontario to help convince her elderly mother to accept medical attention, she had asked the Public Trustee if travel costs could be covered from her mother's account. At that time, the Public Trustee had just been appointed to look after her mother's affairs.

The Public Trustee agreed to cover the costs. However, it asked Ms. B to wait for reimbursement, since the paperwork covering the Public Trustee's appointment had not yet been completed. When Ms. B did apply, the Public Trustee did not pay her claim. That's when Ms. B came to the Ombudsman.

The Public Trustee's office was contacted informally about the matter. The matter was reviewed, and a cheque for \$900 was issued to Ms. B that same week.

In order to determine whether an undertaking by the Ministry of Natural Resources to manage timber operations over 60% of Ontario's land area should be approved, it was necessary to assess the environmental effects of the undertaking.

To accomplish this process, a class environmental assessment was begun by the Environmental Assessment Board (EAB). So that persons other than proponents of the program could be heard, intervenor funding was made available through two Orders in Council. A funding panel of the EAB decided how these funds should be allocated.

When the complainant received the reply to its application for funding, it felt the Funding Panel's decision was biased and grossly unfair. It asked the Ombudsman to investigate.

The Ombudsman found no bias or unfairness in the Funding Panel's decision. However, she found that the wording of the Funding Panel's decision could have been interpreted to mean that certain ineligible expenses would be considered for reimbursement. Since one of the prime causes of complaints to the Ombudsman is unclear wording in decisions, she brought this to the Board's attention.

The EAB agreed that the decision of the Funding Panel should have been more clearly worded.

The Ombudsman is often called upon to investigate an individual's dispute with government that requires consideration of the interests of others.

Mr. W contended that his boathouse had been damaged during the spring melt by shifting ice and high water levels. Mr. W believed a Ministry had been negligent by failing to open a dam to lower lake levels. The Ministry had rejected the claim, saying it had acted properly.

Mr. W asked the Ombudsman to investigate. The investigation revealed that the Ministry adhered to an operating plan for the dam which had been agreed upon by the many cottagers affected by its operation. In fact, no manual control of the water level was required. The excess water simply flowed over a retaining wall when its level reached the top of the wall. The Ombudsman also determined that the spring melt had started early, and was slow and drawn out, resulting in only a marginal increase in the level of the area lakes. With the exception of Mr. W, no other cottage-owner had complained about high water levels or reported damage.

As a result of her investigation, the Ombudsman informed Mr. W she could not support his complaint that the Ministry had acted unreasonably in rejecting his claim.

When Mr. O asked to have hydro service extended to his year-round residence, Ontario Hydro informed him that it required at least four customers for any line extension. Mr. O found three neighbours who also wanted electricity, and a written request was filed. Ontario Hydro then replied that each customer must be wired, inspected, and approved for connection before it would consider extending the line.

Mr. O felt this was unfair, since he would have to go to considerable expense without any assurance that the line would be extended. He asked the Ombudsman to investigate.

When the Ombudsman advised Ontario Hydro of her intention to investigate the matter, the corporation reassessed the circumstances, and based on the written commitment of Mr. O and his neighbours to connect to the line, decided to proceed with the line extension.

10

**Denial
of service**

Failure to keep a proper record

Mr. and Ms. L had paid a municipal planning fee regarding some property they owned. When they were told they were asked to pay a similar fee a second time, they considered it unfair and appealed the matter to the Ontario Municipal Board. The Board refused to hear the appeal, saying they had no jurisdiction to hear the matter since the K's had not filed for an appeal within a specified 30-day time limit. They complained to the Ombudsman. The Ombudsman's investigation determined there was a discrepancy between the actual date the fee had been paid to the municipality and the date they had given to the Board. The appeal had actually been filed within the 30-day limit.

When it was informed of this, the Board readily agreed to hear the appeal.

Ms. M's annual pension statement from a provincial governmental organization had failed for three straight years to reflect her purchase of additional pension plan credits.

She asked the Ombudsman for assistance. During the investigation, the administrator of the plan was able to diagnose the problem as a computer systems error.

The problem was immediately corrected, and an accurate statement was produced and provided to Ms. M. In addition, the administrator placed Ms. M's name on a test file list which will be verified manually each year to ensure its accuracy.

Ms. J lived in a remote northern community. She contacted the Ombudsman's district office because the Ministry of Community and Social Services was trying to collect an overpayment. She reported the Ministry had informed her by letter the overpayment had occurred because she had received social assistance funds for her child when in fact the child was not in her care. Ms. J insisted this was wrong, because she had always looked after her son and they had always lived together.

The Ombudsman's staff made informal inquiries with the governmental organization responsible for the collection. It confirmed Ms. J's description of the problem. A supervisor with the Ministry gave further confirmation. Because the two versions still conflicted, the Ombudsman's staff persisted in making inquiries. Ms. J's caseworker cleared the matter up when she advised that the overpayment had occurred when Ms. J married and continued to receive benefits as a single parent for two months. The letter Ms. J received had contained the wrong reason. While the overpayment continued to stand, the Ministry agreed to send Ms. J a letter advising her of the correct reason. She was also advised of her rights to appeal the Ministry's decision if she chose to do so.

At times, a governmental organization may agree to correct an inaccuracy which the Ombudsman brings to its attention, making a formal investigation unnecessary.

Mr. I was receiving unemployment insurance benefits when deductions for family support payments began to be made from his cheques. He was puzzled, because he was 68 years old and had no children who would qualify for family support. Mr. I lives on a remote First Nation reserve, and does not speak English, so he asked the Chief to take the matter to the Ombudsman's district office.

The Ombudsman's staff made informal inquiries with the Ontario Family Support Plan, but it did not have any file on Mr. I. Inquiries were then made with Unemployment Insurance, where it was determined that the support order which triggered the deductions from Mr. I's cheques had been placed by the British Columbia Family Maintenance Office. Mr. I's funds had been withheld because he had supplied an erroneous Social Insurance Number to the Unemployment Insurance Office.

After numerous calls and diligent tracking, Mr. I received a full refund of over \$1,300 from Unemployment Insurance to replace the incorrect deductions. As for the family support recipient who had received the bonanza, she had already spent the money and since the error was not hers, she was not asked to pay it back.

Sometimes the Ombudsman can remind a governmental organization that it may not have used all the powers available to it under legislation.

The T Cottage Association was concerned that a dam built 20 years earlier was not safe, and that they were endangered. It asked the Ministry of Natural Resources to take action. The Ministry's position was this was a private problem between the cottagers and the owner of the dam.

The cottagers asked the Ombudsman to investigate. Her investigation found that when the dam was constructed, the Ministry had not obtained proper specifications from the owner as is required under the provisions of the *Lakes and Rivers Improvement Act*. Furthermore, a geotechnical study which had been commissioned by the Ministry a few years after the construction had indicated that the project should be reviewed again in the next 5 to 10 years. That period of time had passed.

The Ombudsman raised these facts with the Ministry. The Ministry in turn arranged meetings with the cottagers so that the owner of the dam could have the opportunity to work out a cooperative solution to the problem. The Ministry also undertook to use the powers available to it under the *Act* against the owner if a solution could not be reached informally.

12

**Omission to
monitor or manage
an agency for
which the
governmental
organization is
responsible**

Failure to provide sufficient or proper notice

The Ombudsman's involvement in resolving an individual's complaint can sometimes result in policy improvements which benefit many other persons.

Ms. G and Ms. H each had their own complaints about the Ministry of Natural Resources' approval of the sale of land by a Conservation Authority to private interests. Both had previously sold some of these same lands to the Conservation Authority for the purpose of environmental conservation. Each brought her complaint to the Ombudsman independently of the other.

When the Ombudsman investigated the complaints, she found that the Ministry had approved the sale of the lands to private interests without requiring that adequate notice be given to prospective purchasers. The Ministry agreed to revise its land disposition policies governing the sale of lands by Ontario's Conservation Authorities to ensure that adequate notice is given.

Sometimes the Ombudsman begins an investigation on her own initiative. One of the reasons the Ombudsman may take this action is when a number of similar complaints are received about a governmental organization. Another reason is that there may be reason for the complainant to remain anonymous in reporting a generic situation.

Mr. O, an independent contractor, felt that a Ministry's system of renting trucks and equipment through telephone tenders was unfair, but he feared losing future contracts if he complained to the Ombudsman.

The Ombudsman decided to investigate the matter on her own initiative. After reviewing the existing practices in a number of Ministry offices, the Ombudsman concluded that the telephone tendering practice was not unfair. The system was designed to allow the Ministry to react quickly to urgent and unexpected situations where long delays associated with written bids could damage the public interest.

However, the Ombudsman did find several means through which the system could be improved. Among them was the suggestion that the Ministry advertise annually to ensure that the list of suppliers to be called for a bid was as comprehensive as possible. The Ministry agreed to adopt the Ombudsman's suggestions.

Sometimes the Ombudsman is asked to investigate complex webs of legislation which have entangled persons attempting to assert what appears to be a simple right.

Ms. X had been employed by a ministry in 1989 when she inquired about purchasing pension credits for a period of past federal public service. The purchase, made under the *Public Service Superannuation Act*, would have given her a pension credit date prior to January 1, 1966. Persons whose credit date is prior to that time have their pension calculated on the basis of the average of their best three year's salary, rather than the five-year basis used for persons whose credit date is 1966 or after. For Ms. X, that meant her pension would be higher.

Ms. X made her application to purchase the pension credit on January 17, 1990. However, just 16 days before, on January 1, 1990, the *Public Service Pension Act* had come into effect, replacing the *Public Service Superannuation Act*. Under the new law, the three-year calculation guarantee was limited to members purchasing credit for past Ontario public service. Since Ms. X's past service had been federal, not provincial, she was no longer eligible for the three-year guarantee.

Ms. X appealed the matter to the Ontario Pension Board. Her appeal was denied as the Board did not have authority to change the effective date of an application.

However, in July, 1991, the Pension Board did write to the Management Board Secretariat, the provincial pension plan sponsor, asking if it would consider the special circumstances of Ms. X's situation. The Management Board Secretariat was asked to consider the fact that Ms. X had not been informed when she received information about the pension buy-back that amendments would take effect on January 1, 1990. The Pension Board noted that the plan sponsor has an obligation to inform members of amendments to the plan which may adversely affect them.

The Management Board Secretariat agreed to look into the matter, but by August, 1992, Ms. X's situation still was not resolved. That's when she asked the Ombudsman to investigate the delay.

The Ombudsman wrote to the Management Board Secretariat of her intention to investigate. In September, it advised that it was prepared to offer Ms. X compensation in settlement of her claim. After the details were worked out, Ms. X accepted the offer and considered the matter resolved.

Mr. P was a real estate salesperson whose licence was terminated by the Registrar acting under the *Real Estate and Business Brokers Act*. The termination occurred because the broker who employed Mr. P erroneously included his name on a list of employees who had been terminated. When Mr. P discovered his licence had been terminated, he asked to have it re-instated. However, since some time had passed, Mr. P was told he had to take the licensing courses all over again. He also wanted to apply for a broker's licence, but he was told that, because he had been unlicensed as a salesperson for a long period of time, he would have to wait.

Mr. P complained to the Ombudsman. He believed the Registrar had been unreasonable in failing to notify him when his licence was terminated, in concluding that he did not meet the requirements to become a broker, and in failing to take into consideration the circumstances that had led to the termination of his licence.

After a thorough examination of the facts and the legislation, the Ombudsman came to a tentative conclusion that the Registrar had been unreasonable in failing to ensure that persons are notified when their licences are terminated. Her tentative recommendation was that the Ministry implement corrective measures.

The Ombudsman was satisfied with the Ministry's agreement to revise the notice sent on termination by a broker to the Ministry so that the signature of the salesperson concerned will be required. This procedure would significantly lessen the risk of accidental termination.

The Ombudsman also found that, regardless of the initial error to terminate Mr. P's licence, he had failed in his own responsibility to renew his licence for two consecutive periods following what would have been the normal expiry date of his licence. Accordingly, the Ombudsman concluded that the Registrar had not been unreasonable in finding that Mr. P could not qualify for registration as a broker as he had not been a licensed salesperson for two of the three preceding years.

◆
**Quick Resolution
Cases:
When a case
requires the
correction of a
simple error,
the Ombudsman
can often get a
fast response.**

Example 1: Ms. N contacted the Ombudsman because his permanent disability pension had been cut due to a re-evaluation by the Workers' Compensation Board. The adjudicator had not warned him of this consequence.

The Ombudsman's staff contacted the adjudicator, who said the pension cut had been done in error, since benefits are not supposed to be cut while the assessment was in progress. Ms. N's pension was reinstated.

Example 2: Mr. O contacted the Ombudsman regarding an error that was made in calculating the amount that was owed to him by his former employer.

The Ombudsman's staff contacted the manager of the Employment Standards Branch. It was discovered that an error had indeed been made, and Mr. O would receive a second certificate for the Wage Protection Program for the amount not included in the first certificate.

Example 3: The Housing Authority where Ms. J lives had delivered a letter informing her that all doors and windows in her unit would be replaced the following day. She was told she must be present to let the workers in, and to remain with them until the work was completed.

Ms. J was distressed, because the December weather was quite cold. As an elderly person with a coronary condition, she was worried about aggravating her respiratory problems.

When Ms. J could not reach anyone in the Housing Authority office, she called the Ombudsman's district office. The staff contacted the general manager of the Housing Authority, who agreed to wait to replace Ms. J's doors and windows until warm spring weather had arrived.

Example 4: From his home in northern Ontario, Mr. I had applied for an advertised position with a Ministry. He received an acknowledgement letter, but the letter did not have an address or phone number for the competition contact person. He complained to the Ombudsman that this information should have been provided.

The Ombudsman spoke with the Ministry's human resource advisor. As a result, an apology was provided to Mr. I, and preventative procedures were implemented so as to avoid the situation in the future.

All Ombudsman offices are equipped with a TDD (Telephone Device for the Deaf), consisting of an electronic typewriter for sending a message and a screen on which the message appears.
Many persons with speech or hearing disabilities use the TDD to communicate with the Ombudsman's staff.

Case 1. Ms. P contacted the Ombudsman's staff about the environment in which she is raising her two young sons and about the inadequacy of her small one-bedroom public housing unit. She wished to move to another area where she would be closer to her immediate family, but she had been told there was a two-year waiting list.

The Ombudsman's staff made informal inquiries. As a result, Ms. P was assessed again and was placed on a priority list for a two-bedroom apartment.

Case 2. Mr. Q contacted the Ombudsman's office. He felt his human rights were violated because meetings at city hall in his municipality did not have closed captioning. The city council had already agreed to purchase monitors and equipment, but there were no funds to buy the production services from the local cable company.

The Ombudsman's staff was able to provide several contacts and referrals to Mr. Q which he could pursue.

Case 3. Ms. R contacted the Ombudsman's office. She described problems she and neighbours were having with the owner of the residential trailer park where they lived.

The Ombudsman's staff was able to provide Ms. R with information about agencies and organizations who might be able to provide support or take action on complaints of this sort.

◆
Among the means employed by the Ombudsman's Office to ensure that services are available to all persons in Ontario are Telephone Devices for the Deaf.

Judith Lee
General
Accounting
Clerk



◆
An advantage of the Ombudsman's district offices is that staff are aware of an area's special circumstances, and provide easy access to residents.

Example 1: Mr. C and Mr. D had both experienced the devastating effects of plant closures. When their employer shut down operations fourteen months earlier, they had each applied to the Ministry of Labour for their severance pay in lieu of notice. They waited expectantly for the \$5,000 each would receive.

When Mr. C and Mr. D. came to the Ombudsman's district office, some time had passed and the Ministry still had not processed their claims. They were suffering from financial hardship, since neither had been able to get another job.

The Ombudsman's staff contacted the Ministry, which said it had been swamped with a large number of claims. However, it said it would review and monitor the progress of these applications. By the end of the month, Mr. C and Mr. D had their cheques.

Example 2: Mr. E contacted the Ombudsman's district office in his area because he had been trying unsuccessfully for 13 months to obtain his Cook's Diploma from the Ministry of Skills Development. He needed the document for employment purposes.

The Ombudsman's staff contacted the Ministry, which forwarded the Cook's Diploma by priority post to Mr. E the same day.

Example 3: Mr. F was one of the many people who walked into the Ombudsman's district offices to ask for assistance. His wife had died five years previously, and he was still unable to get his application processed for survivor's benefits. The problem was that he could not obtain a record of his marriage from the Registrar General because Mr. F could remember only the year of his wedding, but not the date.

Chatting with the Ombudsman's staff about the problem, Mr. F mentioned that there were leaves on the ground when he married. The Registrar General was called and asked to conduct a search of the autumn months. The search was successful, and a certified copy of the Marriage Certificate was sent to Mr. F so he could proceed with his pension application.

Example 4: The Ombudsman's district officers often hold "clinics" where persons can discuss their complaints with them. At one such clinic, Mr. L told the district officer that his residence in an outlying area meant he must travel some distance to reach a needed speech therapist. This situation was complicated by his attendance at a daytime vocational training program. He was often too tired in the evening to travel to his therapist's office.

Mr. L knew there was another therapist much closer to his home, but he was not in the age range of patients seen by this therapist. While this situation did not involve any complaint against a provincial governmental organization, the Ombudsman's district officer contacted the local health unit. It agreed to look into the situation and to provide the accommodation necessary so Mr. L could have the needed service in a much more accessible way.

The Ombudsman's intervention may encourage a governmental organization to accept a solution to a problem which has been proposed by a client.

Mr. H, a tourist lodge operator, was upset when Ontario Hydro threatened to disconnect electricity to his lodge because his account was \$1,200 in arrears. He considered this unfair because another provincial agency, the Ministry of Northern Development and Mines, owed him \$7,500. Mr. H asked the Ombudsman to investigate.

The Ombudsman contacted the Ministry, which confirmed that Mr. H was indeed owed \$7,500, but payment could not be processed for another two weeks. The Ombudsman contacted Ontario Hydro, and asked if it would agree to delay termination of Mr. H's electrical service for another two weeks. It agreed to do so.

Two weeks later, the Ombudsman followed up on the matter. Mr. H indicated his cheque from the Ministry had arrived, and the Ontario Hydro arrears had been paid in full.

The Ombudsman's services are sometimes used by First Nations who experience problems with a provincial governmental organization.

The Z First Nation had recently received federal recognition and agreement had been reached regarding lands to be set aside as a reserve. A popular camping ground is located on those lands for which the First Nation intended to charge a \$5-per-night use permit, but campers were arriving with provincial camping permits and no information that the First Nation was now in charge. It decided to post the property to advise campers of the change.

However, the Ministry of Natural Resources advised the First Nation that while it was true agreement had been reached on the land transfer, the lands had not yet been designated as reserve lands under the *Indian Act*. For this reason, the Ministry said, the First Nation did not have the right to charge fees or post signs.

The First Nation asked the Ombudsman's district office for assistance. At the suggestion of the staff, the Ministry agreed to issue a land use permit to the First Nation to allow for the posting and fees pending official reserve land designation. A circular was sent to all local camping permits sales locations so that purchasers would be advised of the new arrangement.

Sometimes when the Ombudsman is investigating a complaint, an unrelated instance of unfairness is noticed which she can discuss with the governmental organization.

Mr. M complained to the Ombudsman that he had been unfairly found guilty in a misconduct hearing in the provincial institution where he was an inmate. He also complained about how he was treated after the hearing.

While the Ombudsman's investigation did not substantiate the complaint, the Ombudsman was concerned that the adjudicator failed to give Mr. M the opportunity to question a witness during the hearing which had been conducted according to provisions of the *Correctional Services Act*. She reported this to the Ministry. It is now reviewing the hearing procedures in provincial facilities to ensure all accused persons are treated fairly. The Ministry will inform the Ombudsman about the results of the policy review.

◆
**The Ombudsman
often encounters
cooperation from
governmental
organizations.**

◆
**The Ombudsman's
recommendations
may result in
improvements to
a governmental
organization's
internal complaint
process.**

Mr. S complained to the Ontario Provincial Police, asserting he could have suffered severe consequences when he was abandoned by two OPP constables on an isolated roadway. The OPP conducted an internal investigation, but Mr. S was dissatisfied that the constables had only been counselled about their conduct. He came to the Ombudsman for assistance.

The Ombudsman concluded after her investigation that counselling was not an appropriate disciplinary measure for the conduct of the constables. She recommended that OPP officials who conduct internal investigations should receive additional training in applying penalties to officers who have been involved in wrongdoing.

The Ministry of the Solicitor General and the OPP agreed to implement the Ombudsman's investigations, and Mr. S was informed about the improvement made as a result of his complaint.

Mr. A was frustrated because he had not received an acknowledgement of his application for a grant. He asked the Ombudsman for assistance, and the information was obtained. The Ombudsman went further — an investigation was made of the Ministry's acknowledgement procedures. As a result, changes were implemented to improve client services.

A group of public servants asked the Ombudsman for assistance after their Ministry was reorganized. They considered it unreasonable that after a commitment had been given that all classified staff would retain employment, a distinction was made between full-time and part-time personnel. The Ombudsman investigated, and as a consequence, job security rights were obtained for all part-time classified staff of the Ontario Public Service. As well, the Ministry extended its job-offer guarantee to the remaining unplaced part-time staff.



Eric Mézin
District Officer

The legislation providing the Ombudsman her mandate gives her investigative powers only with respect to matters involving provincial government organizations.

However, often people call the Ombudsman about other categories of problems. It is the Ombudsman's policy to make a referral, if possible, to a place where help can be obtained.

Sometimes, the Ombudsman's staff can provide direct informal assistance.

Examples of such situations follow.

Example 1: When Ombudsman's district office staff in a northern area learned that a number of senior aboriginal people were unaware of their possible entitlement to Canada Pension Plan benefits, inquiries were made on their behalf.

It was determined they were indeed likely to be eligible. That information was passed on so applications could be made for the benefits.

Example 2. Mr. M contacted the Ombudsman's district office to complain that the local welfare office had sent him a letter threatening to cut off his benefits, but he did not understand why this was being done.

Even though this matter did not involve a provincial governmental organization, Mr. M is a resident of the province and had asked the Ombudsman for assistance. The district officer called the Mr. M's case worker who said she had been unable to reach Mr. M for the past two months.

When the case worker's concern was mentioned to Mr. M, he said he had been spending his days helping his parents through a difficult medical crisis. The telephone number of his parents was provided. This information was passed on to the case worker, who requested that Mr. M be asked to contact her. This was done, and the situation was resolved.

Example 3: Mr. K contacted one of the Ombudsman's district offices to complain he was unable to apply for Canada Pension Plan (CPP) retirement benefits.

Although Mr. K had worked a considerable time in Quebec, his last nine months of employment had been in Ontario. The Ontario CPP office told Mr. K to call the Quebec office. The Quebec office said call Ontario.

In this case, the Ombudsman's district officer contacted the CPP office, even though it is federal and outside the Ombudsman's formal jurisdiction. It was found that the information given to Mr. K was obsolete. Proper forms were mailed out immediately to Mr. K.

Example 4 Mr. M was lost in a stack of documents needed to complete his income tax form. Everything was there except his Family Support Plan case number—and he didn't know how to obtain it. He asked the Ombudsman's district office to help. Several calls were made, and within an hour, Mr. M had the needed number.

Activities of the Ombudsman Events of the year and international activities

The Ombudsman spoke, presented papers, or appeared at these 1992-93 venues:

York Board of Education
April 9, 1992

Manitoba Educational/Cross Cultural Seminar,
Winnipeg
April 10, 1992

St. Catharines Council of Women
April 21, 1992

Environmental Appeal Board
April 27, 1992

North York Board of Education
April 28, 1992

Wabigoon First Nation, Kenora,
Vermilion Bay, Dryden
April 29-30, 1992

Brantford Festival of the Arts
May 1-2, 1992

Superannuated Teachers Conference, Toronto
May 6, 1992

York Region Catholic School Board's
Human Rights Conference
May 26, 1992

Opportunity for Advancement, Toronto
May 28, 1992

P.U.S.H. AGM, Hamilton
June 6, 1993

Six Nations Decoration Day
June 7, 1992

Standing Committee on the Ombudsman
October 8, 1992

Society of Professionals In Dispute Resolution,
Pittsburgh, Pa.
October 9, 1992

International Ombudsman Conference,
Vienna, Austria
October 11-16, 1992

Ganohkwa SRA Sexual Assault Conference,
Hamilton
November 2, 1992

Christian-Jewish Dialogue of Toronto
November 9, 1992

Marathon High School & Town Office,
Pic River First Nation,
Manitouawadge Town Office
November 24, 1992

Geraldton High School, Legion Hall,
Lake Helen Red Rock Band
November 25, 1992

Workers' Compensation Appeals Tribunal
December 3, 1992

Hadassah-WIZO, Beth Tikvah Synagogue
December 7, 1992

Standing Committee on Public Accounts
January 11, 1993

Children's Psychiatric Research Institute, Roberts
School, Middlesex County Building, London
February 11, 1993

Queen's University Faculty of Law, Kingston
February 16, 1993

St. Paul's College, University of Waterloo,
Canadian Studies Board
February 24, 1993

University of Windsor, Faculty of Law,
Annual George M. Duck Lecture
March 9, 1993

Standing Committee on the Ombudsman
March 11, 1993

Peel Multicultural Council, Mississauga,
"Eliminating Racial Discrimination Conference,"
March 29, 1993

In October, the Ombudsman attended the International Ombudsman Conference in Vienna, Austria, where she had been invited to present a paper. The paper dealt with how the work of an Ombudsman might be enriched by the adaptation of traditional means of conflict resolution used by non-Western cultures to deal with issues between public and governments. It also suggested how the Ombudsman concept can be adapted to serve non-Western countries or countries with indigenous populations. Because of the interest shown, a workshop on these issues will be on the agenda for the 1996 International Conference to be held in Buenos Aires.

At the conclusion of the Conference, Ms. Jamieson was elected to the board of directors of the International Ombudsman Institute, an organization dedicated to promoting and improving the practice of Ombudsmanship throughout the world. The Institute is recognized as a non-governmental organization by the United Nations.

The international activities of Ombudsman also assist other countries, including those with whom Canada has considerable trade and social relations, to use the Ombudsman concept to improve human rights and public administration. The Ombudsman of Ontario maintains contact with many Ombudsman world wide.

Statistical
information
Fiscal
1992-93
with
comparative
statistics for
1991-92

During the year the Ombudsman dealt with 33,920 inquiries and complaints (33,261 in 1991-92).

Complaints increased 4% to 8,237 (7,938 in 1991-92) while inquiries increased 1% to 25,683 (25,323 in 1991-92).

In 23,842 or 70% of the cases (22,681 or 68% in 1991-92), no further action was required or possible beyond giving of a referral or making an inquiry on behalf of the complainant.

In 1,827 or 5% of the cases (2,528 or 8% in 1991-92) even though the complaint was not within the Ombudsman's investigative jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution of the matter.

There were 1,953 or 6% cases discontinued (2,040 or 6% in 1991-92). Of these 1,483 were discontinued by the Ombudsman because an adequate alternative remedy was available to the complainant, or no further involvement was required.

Verbal and written complaints and inquiries
by final resolution

	Verbal and written complaints and inquiries	
	1992-93	91-92
Complaint resolved by Ombudsman	886	1,095
Investigation discontinued	1,953	2,040
No action possible	1,202	1,321
Resolution facilitated/Referral given/Inquiry made	29,879	28,805
Total	33,920	33,261

Glossary

Verbal complaint or inquiry

Complaint or inquiry usually received over the telephone.

Written complaint or inquiry

Complaint or inquiry received by note or letter with signature of complainant.

Resolution facilitated/Referral given/
Inquiry made

Assistance given to resolve a problem through discussion, inquiries of the organization complained about, information shared or other tangible methods of resolution; by giving name and phone number of appropriate jurisdictional organization; or actually calling the organization to confirm jurisdiction to handle the matter and make inquiries.

No action possible

No assistance can be given as the problem cannot either adequately be defined, the information given does not require the Ombudsman to take action, the complaint is anonymous, or it is beyond our capacity to facilitate a resolution.

Discontinued by Ombudsman or complainant

The investigation is discontinued because either receipt of additional information indicating further investigation is unnecessary, the agency has taken immediate steps to resolve the problem, the Ombudsman has previously investigated the case, or the complainant does not wish to pursue the matter further for various reasons.

Resolved by Ombudsman in favour of
complainant

The complaint is supported in favour of the complainant.

Resolved by the Ombudsman in favour of the
Government organization

The complaint is not substantiated and therefore not supported.

Resolved in favour of Government organization
with suggestions

The complaint was not supported but suggestions for change of policy or systems is recommended to the Government organization.

Resolved by other means

The complaint is resolved with minimal involvement of the Ombudsman.

Initial contacts

Written, verbal or personal visit

33,920

33,261

Statistical information

Verbal complaints and inquiries

25,683

25,323

Against Provincial Government

12,521

11,997

Against non-Provincial Organization

13,162

13,326

Ministry of
Corrections

6,237

5,981

Other Ministry or
Organization

6,284

6,016

Federal

2,595

2,761

Municipal

2,338

2,087

Private

6,615

6,945

Courts

775

668

Other

839

865

Provincial Ministry
of Corrections

6,066

5,659

171

322

Other Ministry or
Organization

5,909

5,665

375

351

Non-Provincial
Organization

12,764

12,860

398

466

Resolution facilitated/
Referral given/Inquiry made

No action possible

Verbal and written complaints and inquiries

by Organization or Agency

	Verbal complaints and inquiries		Written complaints and inquiries		Totals	
	1992-93	91-92	1992-93	91-92	1992-93	91-92
Provincial Organization	12,521	11,997	6,987	6,960	19,508	18,957
Non-Provincial Organization						
Federal	2,595	2,761	204	143	2,799	2,904
Municipal	2,338	2,087	387	294	2,725	2,381
Private	6,615	6,945	538	421	7,153	7,366
Courts	775	668	76	81	851	749
Other	839	865	45	39	884	904
	13,162	13,326	1,250	978	14,412	14,304
Totals	25,683	25,323	8,237	7,938	33,920	33,261

Written complaints and inquiries

8,237

7,938

Bold figures: 1992-93

Regular: 1991-92

Against Provincial Government

6,987

6,960

Against non-Provincial Organization

1,250

978

Ministry of
Corrections

1,658

1,951

Other Ministry or
Organization

5,329

5,009

Federal

204

143

Municipal

387

294

Private

538

421

Courts

76

81

Other

45

39

Provincial Ministry
of Corrections

887

1,033

Other Ministry or
Organization

596

419

Non-Provincial
Organization

0

0

◀ Investigation discontinued
by Ombudsman

◀ Investigation discontinued
by complainant

◀ Resolved by Ombudsman
in favour of complainant

◀ Resolved by Ombudsman
in favour of Government

◀ Resolved by Ombudsman
by other means

◀ Resolution facilitated/
Referral given/Inquiry made

◀ No action possible

273

386

197

202

0

0

186

167

339

450

0

0

10

26

262

324

0

0

54

95

35

33

0

0

220

226

3,749

3,471

1,171

924

28

18

151

110

79

54

Statistical information

Verbal and written complaints and inquiries against Provincial Government Organizations by final resolution

	Verbal complaints and inquiries		Written complaints and inquiries		Totals	
	1992-93	91-92	1992-93	91-92	1992-93	91-92
Complaint resolved by Ombudsman						
in favour of complainant			525	617	525	617
in favour of Government organization			227	295	227	295
in favour of Government organization with suggestions			45	55	45	55
by other means			89	128	89	128
Investigation discontinued						
by complainant			470	588	470	588
by Ombudsman			1,483	1,452	1,483	1,452
Resolution facilitated/Referral given/Inquiry made	11,975	11,324	3,969	3,697	15,944	15,021
No action possible	546	673	179	128	725	801
Totals	12,521	11,997	6,987	6,960	19,508	18,957

Verbal and written complaints and inquiries against Ministry of Correctional Services by subject matter

	1992-93	91-92		
Classification/Transfer/Committal	1,381	1,041	Religious or life style diet	63 65
Health care inadequate or denied	1,085	1,328	Visiting privileges	60 74
Personal/Inmate property	588	384	Prescription requests denied	59 134
Living conditions in general	490	490	Lost earned remission punitive segregation	58 36
Temporary absence pass discretionary program	474	337	Transfer federal institution	57 29
Inmate misconduct	395	273	Health—other	54 73
Staff conduct	384	403	Second opinion denied	45 19
Living conditions—canteen allowance program	298	308	Mental health care	40 40
Other	280	378	Living conditions smoking	39 48
Discretionary program decisions	245	322	Pre-release	38 33
Living conditions—food/Diet	175	280	Classification other	36 43
Dental	157	167	Living conditions—overcrowding	36 73
Parole	151	195	AIDS, hepatitis	28 40
Correspondence	148	134	Charter of Rights	27 36
Glasses, eye care	139	72	Freedom of information/Protection of privacy	26 27
Living conditions—segregation	128	152	Community Resource Centre	25 43
Medical diet	114	102	Medical segregation	24 30
Administrative segregation	106	9	Ombudsman letter denial	13 20
Policy/Practice	100	209	Searches	13 11
Staff misconduct—assault	96	118	Ombudsman	12 21
Institutional discipline other than inmate misconduct	86	76	Secure facility	11 15
No response to request	79	65	Intermittent sentence	7 4
Yard	78	69	Open facility	4 6
Telephone access/Use	76	73	French	0 6
Protective custody	66	57	Probation	0 3

**Statement of expenditures
for the year ended March 31, 1993**

	1993	1992
Expenditures		
Salaries and wages	\$ 5,596,322	\$ 5,392,467
Employee benefits	1,196,516	1,240,077
Transportation and communication	454,891	431,814
Services	1,834,852	2,187,881
Supplies and equipment	346,067	371,613
	<u>9,428,648</u>	<u>9,623,852</u>
Less miscellaneous revenue	3,774	20,634
Total expenditures	9,424,874	9,603,218

**Audited
statement
for 1992-93
fiscal year**

Approved:

Roberta Jamieson

Ontario Ombudsman



To the Ombudsman

I have audited the statement of expenditures of Ombudsman Ontario for the year ended March 31, 1993. This financial statement is the responsibility of that Office's management. My responsibility is to express an opinion on this financial statement based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, this financial statement presents fairly, in all material respects, the expenditures of Ombudsman Ontario for the year ended March 31, 1993 in accordance with the accounting policies described in note 1 to the financial statement.

Toronto, Ontario
April 30, 1993

Erik Peters
Erik Peters, C.A.
Provincial Auditor

Notes to financial statement

1. Accounting policies

A. *Basis of accounting.* The Office uses a modified cash basis of accounting which allows an additional thirty days to pay for goods and services pertaining to the fiscal year just ended.

B. *Furniture, equipment and leasehold improvements.* Expenditures on furniture, equipment and leasehold improvements are expensed at the time of purchase.

2. Expenditure and miscellaneous revenue

Expenditures are made out of moneys appropriated therefor by the Legislature of the Province of Ontario. Miscellaneous revenue is deposited into the Consolidated Revenue Fund.

3. Pension plan

The Office provides pension benefits for its permanent employees through participation in the Public Service Pension Fund, established by the Province of Ontario. The Office's share of contributions to the Fund during the year was \$536,454 (1992 - \$488,242) and is included in employee benefits. This amount includes current contributions and additional payments required to cover the Office's share of the Fund's unfunded liabilities on January 1, 1990. These additional payments commenced in 1990 and will continue over forty years.

The Ombudsman's staff

(as of March 31,
1993)

Kwame ADDO
John ALLAN
Lee ANDERSON
Marney ANDERSON
Jeanne ANG
Christine ANGUS-JONES
Tim ARKELL
Betty BAKER
Velupillai BALASUBRAMA NIAM
Sherry BAPTISTA
Suzanne BERNIER
Julie BERTRAND
Calvin BLACKWOOD
Robin BOSWORTH
Lorraine BOUCHER
Maureen BOURNS
Ginette BRINDLE
Dale BRYANT
Mary CARL
Gerry CARLINO
Barbara CASSON-ROBIN
Sharon CHAMBERS
Don CHEFF
Patrick CLEMENT
Joyce COOLMAN
Lise CORBEL
Jackie CORREIA
Jackie CRAWFORD
Fiona CREAN
Penny CUMMINGS

Rosie DEAR
Zalina DEODAT
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